

Title 12

Human Services

TITLE 12. HUMAN SERVICES

IC 12-7

ARTICLE 7. GENERAL PROVISIONS AND DEFINITIONS

IC 12-7-1

Chapter 1. Application

IC 12-7-1-1

Sec. 1. Except as otherwise provided, the definitions in this article apply throughout this title.

As added by P.L.2-1992, SEC.1.

IC 12-7-1-2

Sec. 2. Except as otherwise provided in this title, a reference to federal statute or regulation in this title is a reference to the statute or regulation as in effect on January 1, 1992.

As added by P.L.2-1992, SEC.1.

IC 12-7-2

Chapter 2. Definitions

IC 12-7-2-1

Sec. 1. (a) "Account", for purposes of IC 12-14-24, has the meaning set forth in IC 12-14-24-1.

(b) "Account", for purposes of IC 12-17-2, has the meaning set forth in IC 12-17-2-1.7.

As added by P.L.2-1992, SEC.1. Amended by P.L.74-1992, SEC.1; P.L.257-1997(ss), SEC.1.

IC 12-7-2-1.3

Sec. 1.3. "Activities of daily living", for purposes of IC 12-10-10, has the meaning set forth in IC 12-10-10-1.5.

As added by P.L.150-1995, SEC.1.

IC 12-7-2-1.5

Administrator

Sec. 1.5. "Administrator", for purposes of:

(1) IC 12-10-15, has the meaning set forth in IC 12-10-15-1.5; and

(2) IC 12-24-17, has the meaning set forth in IC 12-24-17-1.

As added by P.L.74-1992, SEC.2. Amended by P.L.184-2003, SEC.2.

IC 12-7-2-2

Sec. 2. "Adult protective services unit", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-3

Sec. 3. "Advance", for purposes of IC 12-20-25-41, has the meaning set forth in IC 12-20-25-41.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-4

Sec. 4. "Advocacy", for purposes of IC 12-28-1, has the meaning set forth in IC 12-28-1-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-5

Sec. 5. "Advocate", for purposes of IC 12-26, refers to a person who:

(1) is a court appointed special advocate (as defined in IC 31-9-2-28); or

(2) is a guardian ad litem (as defined in IC 31-9-2-50).

As added by P.L.2-1992, SEC.1. Amended by P.L.1-1997, SEC.48.

IC 12-7-2-6

Sec. 6. "AFDC" refers to the Aid to Families with Dependent Children program.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-7

IC 12-7-2-7 Sec. 7. "Affected agency", for purposes of IC 12-16-1, has the meaning set forth in IC 12-16-1-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-8

Sec. 8. "Aged", for purposes of IC 12-10-1 and IC 12-10-2, means an individual who is at least sixty (60) years of age.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-9

Sec. 9. "Agency" means the following:

(1) For purposes of IC 12-10-12, the meaning set forth in IC 12-10-12-1.

(2) For purposes of IC 12-17-15, the meaning set forth in IC 12-17-15-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.21-1992, SEC.3.

IC 12-7-2-10

Sec. 10. "Alcohol abuse", for purposes of IC 12-23, means repeated episodes of intoxication or drinking which impair health or interfere with an individual's effectiveness on the job, at home, in the community, or operating a motor vehicle.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-11

Sec. 11. "Alcohol abuser", for purposes of IC 12-23, means an individual who has had repeated episodes of intoxication or drinking which impair the individual's health or interfere with the individual's effectiveness on the job, at home, in the community, or in operating a motor vehicle.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-12**Alcohol and drug services program**

Sec. 12. "Alcohol and drug services program", for purposes of IC 12-23, means a service for a person:

(1) charged with or convicted of a misdemeanor or felony; or

(2) against whom a:

(A) complaint for an infraction is filed; or

(B) judgment for an infraction is entered;

which provides intervention, education, referral, treatment, or rehabilitation, under the operation of a court or under private contract.

As added by P.L.2-1992, SEC.1. Amended by P.L.168-2002, SEC.1; P.L.80-2003, SEC.1.

IC 12-7-2-13

Sec. 13. "Alcoholic", for purposes of IC 12-23, means an individual who chronically and habitually uses alcoholic beverages to the extent that the individual:

(1) loses the power of self control with respect to the use of alcoholic beverages; and

(2) becomes a menace to the public morals, health, safety, or welfare of the members of society in general.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-14

Sec. 14. "Alcoholism", for purposes of IC 12-23, means the abnormal condition which the effect of alcohol produces in an alcoholic.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-14.3

Sec. 14.3. "Alzheimer's and dementia special care", for purposes of IC 12-10-5.5, has the meaning set forth in IC 12-10-5.5-1.

As added by P.L.106-1997, SEC.1.

IC 12-7-2-15

Sec. 15. "Applicant" means the following:

(1) For purposes of the following statutes, a person who has applied for assistance for the applicant or another person under any of the following statutes:

(A) IC 12-10-6.

(B) IC 12-10-12.

(C) IC 12-13.

(D) IC 12-14.

- (E) IC 12-15.
- (F) IC 12-17-1.
- (G) IC 12-17-2.
- (H) IC 12-17-3.
- (I) IC 12-17-9.
- (J) IC 12-17-10.
- (K) IC 12-17-11.
- (L) IC 12-19.

(2) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-1.

(3) For purposes of IC 12-17-13, the meaning set forth in IC 12-17-13-1.

(4) For the purposes of IC 12-17.2, a person who seeks a license to operate a child care center or child care home.

(5) For purposes of IC 12-17.4, a person who seeks a license to operate a child caring institution, foster family home, group home, or child placing agency.

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.4; P.L.81-1992, SEC.4; P.L.1-1993, SEC.68; P.L.61-1993, SEC.2; P.L.272-1999, SEC.6.

IC 12-7-2-15.5

Sec. 15.5. "Appropriate and medically necessary", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-1.

As added by P.L.75-1992, SEC.1.

IC 12-7-2-16

Sec. 16. "Approved institution of higher learning" has the meaning set forth in IC 20-12-21-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-17

Sec. 17. "Asset disregard", for purposes of IC 12-15-39.6, has the meaning set forth in IC 12-15-39.6-10.

As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.5.

IC 12-7-2-18

Sec. 18. "Assistance", for purposes of the following statutes, means money or services regardless of the source, paid or furnished under any of the following statutes:

- (1) IC 12-10-6.
- (2) IC 12-10-12.
- (3) IC 12-13.
- (4) IC 12-14.
- (5) IC 12-15.
- (6) IC 12-17-1.
- (7) IC 12-17-2.
- (8) IC 12-17-3.
- (9) IC 12-17-9.
- (10) IC 12-17-10.
- (11) IC 12-17-11.
- (12) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.7.

IC 12-7-2-18.7

YAMD.1997

Sec. 18.7. "Automated teller machine", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.257-1997(ss), SEC.2.

IC 12-7-2-19

Sec. 19. "Autism", for purposes of IC 12-11-8, has the meaning set forth in IC 12-11-8-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-20

Sec. 20. "Autistic", for purposes of IC 12-11-1.1-6 and IC 12-28-4-13, refers to the characteristics of a neurological disorder that is described in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Washington, American Psychiatric Association, 1994, pages 70 and 71.

As added by P.L.2-1992, SEC.1. Amended by P.L.151-1995, SEC.1; P.L.107-1997, SEC.1; P.L.272-1999, SEC.8.

IC 12-7-2-20.5

Sec. 20.5. "Basic necessities", for purposes of IC 12-20, includes those services or items essential to meet the minimum standards of health, safety, and decency, including the following:

- (1) Medical care described in IC 12-20-16-2.
- (2) Clothing and footwear.
- (3) Food.
- (4) Shelter.
- (5) Transportation to seek and accept employment on a reasonable basis.
- (6) Household essentials.
- (7) Essential utility services.
- (8) Other services or items the township trustee determines are necessities.

As added by P.L.51-1996, SEC.2.

IC 12-7-2-21

Sec. 21. "Blind" means the following:

(1) For purposes of the following statutes, the term refers to an individual who has vision in the better eye with correcting glasses of 20/200 or less, or a disqualifying visual field defect as determined upon examination by an ophthalmologist or optometrist who has been designated to make such examinations by the county office and approved by the division of family and children or by the division in the manner provided in any of the following statutes:

- (A) IC 12-10-6.
- (B) IC 12-10-12.
- (C) IC 12-13.
- (D) IC 12-14.
- (E) IC 12-15.
- (F) IC 12-17-1.
- (G) IC 12-17-2.
- (H) IC 12-17-3.
- (I) IC 12-17-9.
- (J) IC 12-17-10.
- (K) IC 12-17-11.
- (L) IC 12-19.

(2) For purposes of the following statutes, the term refers to an individual who has a central visual acuity of 20/200 or less in the individual's better eye with the best correction or a field of vision that is not greater than twenty (20) degrees at its widest diameter:

- (A) IC 12-12-1.
- (B) IC 12-12-3.
- (C) IC 12-12-5.
- (D) IC 12-12-6.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.17; P.L.5-1993, SEC.30; P.L.49-1997, SEC.41; P.L.272-1999, SEC.9.

IC 12-7-2-22

Sec. 22. "Board" means the following:

- (1) For purposes of IC 12-10-10 and IC 12-10-11, the community and home options to institutional care for the elderly and disabled board established by IC 12-10-11-1.
- (2) For purposes of 12-12-7-5, the meaning set forth in IC 12-12-7-5(a).
- (3) For purposes of IC 12-15-35, the meaning set forth in IC 12-15-35-2.
- (4) For purposes of IC 12-17-2-36, the meaning set forth in IC 12-17-2-36(a).

As added by P.L.2-1992, SEC.1. Amended by P.L.75-1992, SEC.2; P.L.20-1992, SEC.5; P.L.81-1992, SEC.5; P.L.1-1993, SEC.69; P.L.40-1994, SEC.6; P.L.104-1996, SEC.1; P.L.23-1996, SEC.10; P.L.24-1997, SEC.6; P.L.272-1999, SEC.10.

IC 12-7-2-23

Sec. 23. "Body", for purposes of IC 12-8-2, has the meaning set forth in IC 12-8-2-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-24

Bureau

Sec. 24. "Bureau" means the following:

- (1) For purposes of IC 12-10, the bureau of aging and in-home services established by IC 12-10-1-1.
- (2) For purposes of IC 12-11, the bureau of developmental disabilities services established by IC 12-11-1.1-1.
- (3) For purposes of IC 12-12, the rehabilitation services bureau of the division of disability, aging, and rehabilitative services established by IC 12-12-1-1.
- (4) For purposes of IC 12-12.5, the bureau of quality improvement services established by IC 12-12.5-1-1.
- (5) For purposes of IC 12-17-2, the meaning set forth in IC 12-17-2-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.18; P.L.5-1993, SEC.31; P.L.1-1994, SEC.47; P.L.40-1994, SEC.7; P.L.272-1999, SEC.11; P.L.243-2003, SEC.1.

IC 12-7-2-24.6

Caregiver

Sec. 24.6. "Caregiver", for purposes of IC 12-17.2, means an individual who is assigned by a provider the responsibility for supervising a specific child in the care of the provider.

As added by P.L.18-2003, SEC.1

.IC 12-7-2-24.7 Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-7-2-24.8

Caretaker

Sec. 24.8. "Caretaker", for purposes of IC 12-10.5, has the meaning set forth in IC 12-10.5-1-1.

As added by P.L.274-2003, SEC.2.

IC 12-7-2-25

Sec. 25. "Case management" means the following:

- (1) For purposes of IC 12-10-1 and IC 12-10-10, has the meaning set forth in IC 12-10-10-1.
- (2) For purposes of IC 12-7-2-40.6 and IC 12-24-19, the meaning set forth in IC 12-24-19-2.

As added by P.L.2-1992, SEC.1. Amended by P.L.40-1994, SEC.8; P.L.150-1995, SEC.2.

IC 12-7-2-26

Sec. 26. "Center", for purposes of IC 12-26, means a community mental health center.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-26.1

Sec. 26.1. "Center for independent living", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-1.

As added by P.L.151-1995, SEC.2. Amended by P.L.272-1999, SEC.12.

IC 12-7-2-27

Sec. 27. "Chief magistrate", for purposes of IC 12-28-3, has the meaning set forth in IC 12-28-3-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-28

Sec. 28. "Child" means the following:

- (1) For purposes of IC 12-17.2 and IC 12-17.4, an individual who is less than eighteen (18) years of age.
- (2) For purposes of IC 12-26, the meaning set forth in IC 31-9-2-13(d).

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.6 and P.L.81-1992, SEC.6; P.L.1-1993, SEC.70; P.L.1-1997, SEC.49.

IC 12-7-2-28.1

Sec. 28.1. "Child at imminent risk of placement", for purposes of IC 12-14-25.5, has the meaning set forth in IC 12-14-25.5-1.

As added by P.L.74-1994, SEC.1.

IC 12-7-2-28.2

Sec. 28.2. "Child care", for purposes of IC 12-17.2 and IC 12-17.4, means a service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

As added by P.L.20-1992, SEC.7 and P.L.81-1992, SEC.7. Amended by P.L.1-1993, SEC.71.

IC 12-7-2-28.4

Sec. 28.4. (a) "Child care center", for purposes of IC 12-17.2, means a building where at least seventeen (17) children receive child care from a provider:

- (1) while unattended by a parent, legal guardian, or custodian;
- (2) for regular compensation; and
- (3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days

per year, excluding intervening Saturdays, Sundays, and holidays.

(b) The term includes a building where child care is provided to less than seventeen (17) children if the provider has applied for a license under IC 12-17.2-4 and meets the requirements under IC 12-17.2-4.

As added by P.L.20-1992, SEC.8; P.L.81-1992, SEC.8. Amended by P.L.1-1993, SEC.72; P.L.136-1993, SEC.1; P.L.1-1994, SEC.48.

IC 12-7-2-28.6

Sec. 28.6. (a) "Child care home", for purposes of IC 12-17.2, means a residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider:

- (1) while unattended by a parent, legal guardian, or custodian;
- (2) for regular compensation; and
- (3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

(b) The term includes:

- (1) a class I child care home; and
- (2) a class II child care home.

As added by P.L.20-1992, SEC.9 and P.L.81-1992, SEC.9. Amended by P.L.1-1993, SEC.73; P.L.136-1993, SEC.2.

IC 12-7-2-28.8

Sec. 28.8. "Child care ministry", for purposes of IC 12-17.2, means child care operated by a church or religious ministry that is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code.

As added by P.L.20-1992, SEC.10 and P.L.81-1992, SEC.10. Amended by P.L.1-1993, SEC.74.

IC 12-7-2-28.9

Child care program

Sec. 28.9. "Child care program", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.2.

As added by P.L.18-2003, SEC.2.

IC 12-7-2-29

Sec. 29. "Child caring institution" means the following:

(1) For purposes of IC 12-17.4:

- (A) a residential facility that provides child care on a twenty-four (24) hour basis for more than ten (10) children; or
 - (B) a residential facility with a capacity of not more than ten (10) children that does not meet the residential structure requirements of a group home.
- (2) For purposes of section 82(3) of this chapter and IC 12-26, an institution that:
- (A) operates under a license issued under IC 12-17.4;
 - (B) provides for delivery of mental health services that are appropriate to the needs of the individual; and
 - (C) complies with the rules adopted under IC 4-22-2 by the division of family and children.

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.11; P.L.81-1992, SEC.11; P.L.1-1993, SEC.75; P.L.61-1993, SEC.3.

IC 12-7-2-30

Sec. 30. "Child in need of services", for purposes of the following statutes, has the meaning set forth in IC 31-34-1-1 through IC 31-34-1-9:

- (1) IC 12-13.
- (2) IC 12-14.
- (3) IC 12-15.
- (4) IC 12-17-1.
- (5) IC 12-17-2.
- (6) IC 12-17-3.
- (7) IC 12-17-9.
- (8) IC 12-17-10.
- (9) IC 12-17-11.
- (10) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.1-1997, SEC.50.

IC 12-7-2-31

Sec. 31. "Child placing agency", for purposes of IC 12-17.4, means a person who provides child welfare services to children and families. The services include home studies, investigation, and recommendation of families for the purpose of placing, arranging, or causing the placement of children for adoption, foster care, or residential care and supervision of those placements.

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.12; P.L.81-1992, SEC.12; P.L.1-1993, SEC.76.

IC 12-7-2-31.5

Sec. 31.5. "Child protection caseworker", for purposes of IC 12-13-14.5, has the meaning set forth in IC 12-13-14.5-1.

As added by P.L.105-1996, SEC.1.

IC 12-7-2-31.6

Sec. 31.6. "Child welfare caseworker", for purposes of IC 12-13-14.5, has the meaning set forth in IC 12-13-14.5-2.

As added by P.L.105-1996, SEC.2.

IC 12-7-2-32

Sec. 32. "Child welfare services", for purposes of the following statutes, means the services for children prescribed in IC 12-17-3-1:

- (1) IC 12-13.
- (2) IC 12-14.
- (3) IC 12-15.
- (4) IC 12-17-1.
- (5) IC 12-17-2.
- (6) IC 12-17-3.
- (7) IC 12-17-9.
- (8) IC 12-17-10.
- (9) IC 12-17-11.
- (10) IC 12-19.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-33

(Repealed by P.L.61-1993, SEC.67.)

IC 12-7-2-33.5

Sec. 33.5. "Chronically medically dependent" for purposes of IC 12-15-36, has the meaning set forth in IC 12-15-36-2.

As added by P.L.76-1992, SEC.1.

IC 12-7-2-33.6**Coalition**

Sec. 33.6. "Coalition", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-1.

As added by P.L.181-2003, SEC.1.

IC 12-7-2-33.7

Sec. 33.7. (a) As used in this chapter, "class I child care home" means a child care home that serves any combination of full-time and part-time children, not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least grade 1. Except as provided in IC 12-17.2-5-6.3(b), the addition of three (3) school age children may not occur during a break in the school year that exceeds four (4) weeks.

(b) A child:

- (1) for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative; and
 - (2) who is at least seven (7) years of age;
- shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

As added by P.L.136-1993, SEC.3. Amended by P.L.106-1996, SEC.1; P.L.247-2001, SEC.5.

IC 12-7-2-33.8

Sec. 33.8. (a) As used in this chapter, "class II child care home" means a child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time.

(b) A child:

(1) for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative; and

(2) who is at least seven (7) years of age;

shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

As added by P.L.136-1993, SEC.4.

IC 12-7-2-33.9

Sec. 33.9. (a) "Clean claim", for purposes of IC 12-15-13, except for IC 12-15-13-1 and IC 12-15-13-1.5, has the meaning set forth in IC 12-15-13-0.5.

(b) "Clean claim", for purposes of IC 12-15-13-1 and IC 12-15-13-1.5, has the meaning set forth in IC 12-15-13-0.6.

As added by P.L.107-1996, SEC.1 and P.L.257-1996, SEC.1.

IC 12-7-2-34

Sec. 34. "Commission" means the following:

(1) For purposes of IC 12-10-2, the meaning set forth in IC 12-10-2-1.

(2) For purposes of IC 12-11-7, the meaning set forth in IC 12-11-7-1.

(3) For purposes of IC 12-12-2, the meaning set forth in IC 12-12-2-1.

(4) For purposes of IC 12-13-14, the meaning set forth in IC 12-13-14-1.

(5) For purposes of IC 12-14-12, the meaning set forth in IC 12-14-12-1.

(6) For purposes of IC 12-28-1, the meaning set forth in IC 12-28-1-3.

As added by P.L.2-1992, SEC.1. Amended by P.L.42-1995, SEC.4; P.L.2-1997, SEC.29.

IC 12-7-2-35

Sec. 35. "Committee" means the following:

(1) For purposes of IC 12-8-3, the meaning set forth in IC 12-8-3-1.

(2) For purposes of IC 12-15-33, the meaning set forth in IC 12-15-33-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.2-1995, SEC.44; P.L.42-1995, SEC.5.

IC 12-7-2-36

Sec. 36. "Community action agency", for purposes of IC 12-14-23, has the meaning set forth in IC 12-14-23-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-37

Sec. 37. "Community and home care services", for purposes of IC 12-10-10, has the meaning set forth in IC 12-10-10-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-38

Sec. 38. "Community mental health center" means a program of services that meets the following conditions:

(1) Is approved by the division of mental health.

(2) Is organized for the purpose of providing multiple services for persons with mental illness or a chronic addictive disorder.

(3) Is operated by one (1) of the following or any combination of the following:

(A) A city, a town, a county, or another political subdivision of Indiana.

(B) An agency of the state.

(C) An agency of the United States.

(D) A political subdivision of another state.

(E) A hospital owned or operated by a unit of government described in clauses (A) through (D).

(F) A building authority organized for the purpose of constructing facilities to be leased to units of government.

(G) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.

(H) A nonprofit corporation incorporated in another state.

(I) A university or college.

As added by P.L.2-1992, SEC.1. Amended by P.L.23-1993, SEC.35; P.L.40-1994, SEC.9.

IC 12-7-2-39

Sec. 39. "Community mental retardation and other developmental disabilities centers", for purposes of IC 12-29 (except as provided in IC 12-29-3-6), means a program of services that meets the following

conditions:

- (1) Is approved by the division of disability, aging, and rehabilitative services.
- (2) Is organized for the purpose of providing multiple services for persons with developmental disabilities.
- (3) Is operated by one (1) of the following or any combination of the following:
 - (A) A city, a town, a county, or another political subdivision of Indiana.
 - (B) An agency of the state.
 - (C) An agency of the United States.
 - (D) A political subdivision of another state.
 - (E) A hospital owned or operated by a unit of government described in clauses (A) through (D).
 - (F) A building authority organized for the purpose of constructing facilities to be leased to units of government.
 - (G) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.
 - (H) A nonprofit corporation incorporated in another state.
 - (I) A university or college.
- (4) Is accredited by CARF.

As added by P.L.2-1992, SEC.1. Amended by P.L.23-1993, SEC.36; P.L.4-1993, SEC.19; P.L.5-1993, SEC.32; P.L.1-1994, SEC.49; P.L.24-1997, SEC.7.

IC 12-7-2-40

Sec. 40. "Community residential program", for purposes of IC 12-22-2, refers to the programs described in IC 12-22-2-3.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.13.

IC 12-7-2-40.5

Sec. 40.5. "Compendia", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-3.

As added by P.L.75-1992, SEC.3.

IC 12-7-2-40.6

Sec. 40.6. "Continuum of care" means a range of services the provision of which is assured by a community mental health center or a managed care provider. The term includes the following:

- (1) Individualized treatment planning to increase patient coping skills and symptom management, which may include any combination of services listed under this section.
- (2) Twenty-four (24) hour a day crisis intervention.
- (3) Case management to fulfill individual patient needs, including assertive case management when indicated.
- (4) Outpatient services, including intensive outpatient services, substance abuse services, counseling, and treatment.
- (5) Acute stabilization services, including detoxification services.
- (6) Residential services.
- (7) Day treatment.
- (8) Family support services.
- (9) Medication evaluation and monitoring.
- (10) Services to prevent unnecessary and inappropriate treatment and hospitalization and the deprivation of a person's liberty.

As added by P.L.40-1994, SEC.10.

IC 12-7-2-40.7

Sec. 40.7. "Consumer control", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-2.

As added by P.L.151-1995, SEC.3. Amended by P.L.272-1999, SEC.14.

IC 12-7-2-41

Sec. 41. "Contracting county", for purposes of IC 12-30-7, has the meaning set forth in IC 12-30-7-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-42

Sec. 42. "Contribution", for purposes of IC 12-17-12, has the meaning set forth in IC 12-17-12-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-43

Sec. 43. "Control board", for purposes of IC 12-20-25, has the meaning set forth in IC 12-20-25-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-44

Sec. 44. "Council" means the following:

- (1) For purposes of IC 12-9-4, the meaning set forth in IC 12-9-4-1.
 - (2) For purposes of IC 12-13-4, the meaning set forth in IC 12-13-4-1.
 - (3) For purposes of IC 12-17-15, the meaning set forth in IC 12-17-15-2.
 - (4) For purposes of IC 12-18-3 and IC 12-18-4, the domestic violence prevention and treatment council established by IC 12-18-3-1.
 - (5) For purposes of IC 12-21-4, the meaning set forth in IC 12-21-4-1.
 - (6) For purposes of IC 12-28-5, the meaning set forth in IC 12-28-5-1.
- As added by P.L.2-1992, SEC.1. Amended by P.L.21-1992, SEC.4; P.L.40-1994, SEC.11; P.L.91-1996, SEC.2.*

IC 12-7-2-44.5

IC 12-7-2-44.5 Sec. 44.5. "Counseling", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-4.

As added by P.L.75-1992, SEC.4.

IC 12-7-2-44.6

Sec. 44.6. "Countable asset", for purposes of IC 12-20, means noncash property that is not necessary for the health, safety, or decent living standard of a household that:

- (1) is owned wholly or in part by the applicant or a member of the applicant's household;
- (2) the applicant or the household member has the legal right to sell or liquidate; and
- (3) includes:
 - (A) real property other than property that is used for the production of income or that is the primary residence of the household;
 - (B) savings and checking accounts, certificates of deposit, bonds, stocks, and other intangibles that have a net cash value; and
 - (C) boats, other vehicles, or any other personal property used solely for recreational or entertainment purposes.

As added by P.L.51-1996, SEC.3.

IC 12-7-2-44.7

Sec. 44.7. "Countable income", for purposes of IC 12-20, means a monetary amount either paid to an applicant or a member of an applicant's household not more than thirty (30) days before the date of application for poor relief, or accrued and legally available for withdrawal by an applicant or a member of an applicant's household at the time of application or not more than thirty (30) days after the date of application for poor relief. The term includes the following:

- (1) Gross wages before mandatory deductions.
- (2) Social Security benefits, including Supplemental Security Income.
- (3) Aid to Families with Dependent Children.
- (4) Unemployment compensation.
- (5) Worker's compensation (except compensation that is restricted for the payment of medical expenses).
- (6) Vacation pay.
- (7) Sick benefits.
- (8) Strike benefits.
- (9) Private or public pensions.
- (10) Taxable income from self-employment.
- (11) Bartered goods and services provided by another individual for the payment of nonessential needs on behalf of an applicant or an applicant's household if monetary compensation or the provision of basic necessities would have been reasonably available from that individual.
- (12) Child support.
- (13) Gifts of cash, goods, or services.
- (14) Other sources of revenue or services that the township trustee may reasonably determine to be countable income.

As added by P.L.51-1996, SEC.4.

IC 12-7-2-45

Sec. 45. "County office" refers to a county office of family and children.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.20; P.L.5-1993, SEC.33.

IC 12-7-2-46

Sec. 46. "County director" refers to a director of a county office or a director of a district office of the

division of family and children.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.21; P.L.5-1993, SEC.34.

IC 12-7-2-46.2

Sec. 46.2. "County home", for purposes of IC 12-20, means a residential facility owned, staffed, maintained, and operated by a county government for eligible county residents who are able to perform activities of daily living with little or no assistance, including the following activities:

- (1) Bathing.
- (2) Dressing.
- (3) Grooming.
- (4) Walking.
- (5) Using the toilet.
- (6) Eating.

As added by P.L.51-1996, SEC.5.

IC 12-7-2-46.5

Sec. 46.5. "Court", for purposes of IC 12-17.2 and IC 12-17.4, means a circuit or superior court.

As added by P.L.20-1992, SEC.13 and P.L.81-1992, SEC.13. Amended by P.L.1-1993, SEC.78.

IC 12-7-2-47

(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-48

Sec. 48. "Covered medical services", for purposes of IC 12-16-1, has the meaning set forth in IC 12-16-1-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-49

(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-50

(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-51

Sec. 51. "Creditor", for purposes of IC 12-20-25, has the meaning set forth in IC 12-20-25-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-51.4

Sec. 51.4. "Criminal history affidavit" refers to the following:

- (1) For purposes of IC 12-17.2, an affidavit described in IC 12-17.2-4-4.
- (2) For purposes of IC 12-17.4, an affidavit described in IC 12-17-7-1.

As added by P.L.1-1993, SEC.80.

IC 12-7-2-51.5

(Repealed by P.L.1-1993, SEC.79; P.L.61-1993, SEC.67; P.L.136-1993, SEC.24.)

IC 12-7-2-51.7

Sec. 51.7. "Criteria", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-5.

As added by P.L.1-1993, SEC.81.

IC 12-7-2-51.9

YAMD.1999

Sec. 51.9. "Cross-disability", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.

As added by P.L.151-1995, SEC.4. Amended by P.L.272-1999, SEC.15.

IC 12-7-2-52

Sec. 52. "Custodial authority of a building", for purposes of the following statutes, means the person authorized to contract for the provision of vending services in the building:

- (1) IC 12-12-5.
- (2) IC 12-12-6.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-52.2

Crowd out

Sec. 52.2. "Crowd out", for purposes of IC 12-17.6, has the meaning set forth in IC 12-17.6-1-2.

As added by P.L.273-1999, SEC.163. Amended by P.L.283-2001, SEC.9; P.L.255-2003, SEC.8.

IC 12-7-2-53

Sec. 53. "Dangerous", for purposes of IC 12-26, means a condition in which an individual as a result of

mental illness, presents a substantial risk that the individual will harm the individual or others.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-54

IC 12-7-2-55

(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-55.1

Sec. 55.1. "Dawn project", for purposes of IC 12-22-4, has the meaning set forth in IC 12-22-4-1.

As added by P.L.282-2001, SEC.1.

IC 12-7-2-56

(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-56.5

Sec. 56.5. "Delinquent", for purposes of IC 12-17-2, has the meaning set forth in IC 12-17-2-1.5.

As added by P.L.2-1996, SEC.230. Amended by P.L.23-1996, SEC.11.

IC 12-7-2-57

Sec. 57. "Delinquent child", for purposes of the following statutes, has the meaning set forth in IC 31-37-1 and IC 31-37-2:

(1) IC 12-13.

(2) IC 12-14.

(3) IC 12-15.

(4) IC 12-17-1.

(5) IC 12-17-2.

(6) IC 12-17-3.

(7) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.1-1997, SEC.51.

IC 12-7-2-57.5

Sec. 57.5. "Department", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.2-1997, SEC.30.

IC 12-7-2-58

Sec. 58. (a) "Dependent child", for purposes of the statutes listed in subsection (b), means a needy individual who satisfies either of the following conditions:

(1) The individual is less than sixteen (16) years of age.

(2) The individual is less than eighteen (18) years of age and the county office that has jurisdiction of the individual finds all of the following:

(A) The individual regularly attends school.

(B) The individual has been deprived of parental support or care because of a parent's:

(i) death;

(ii) continued absence from the home; or

(iii) physical or mental incapacity.

(C) The individual's parent or other relative who is legally responsible for the child's support is not able to provide adequately for the individual without public assistance.

(D) The individual is living in the home of at least one (1) of the following relatives:

(i) The individual's parent.

(ii) The individual's sibling.

(iii) The individual's grandparent.

(iv) The individual's stepparent.

(v) The individual's stepbrother or stepsister.

(vi) The individual's aunt or uncle.

(b) This section applies to the following statutes:

(1) IC 12-13.

(2) IC 12-14.

(3) IC 12-15.

(4) IC 12-17-1.

(5) IC 12-17-2.

(6) IC 12-17-3.

(7) IC 12-17-10.

(8) IC 12-17-11.

(9) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.22; P.L.5-1993, SEC.35.

IC 12-7-2-59

Sec. 59. "Designee", for purposes of IC 12-10-12, has the meaning set forth in IC 12-10-12-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-60

Sec. 60. (a) "Destitute child", for purposes of the statutes listed in subsection (b), means an individual:

- (1) who is needy;
- (2) who is not a public ward;
- (3) who is less than eighteen (18) years of age;
- (4) who has been deprived of parental support or care because of a parent's:
 - (A) death;
 - (B) continued absence from the home; or
 - (C) physical or mental incapacity; and
- (5) whose relatives liable for the individual's support are not able to provide adequate care or support for the individual without public assistance; and
- (6) who is in need of foster care, under circumstances that do not require the individual to be made a public ward.

(b) This section applies to the following statutes:

- (1) IC 12-13.
- (2) IC 12-14.
- (3) IC 12-15.
- (4) IC 12-17-1.
- (5) IC 12-17-2.
- (6) IC 12-17-3.
- (7) IC 12-17-9.
- (8) IC 12-17-10.
- (9) IC 12-17-11.
- (10) IC 12-19.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-61

Sec. 61. "Developmental disability" means the following:

- (1) Except as provided in subdivision (2), before July 1, 1993, the term means a disability of an individual that:
 - (A) is attributable to:
 - (i) mental retardation, cerebral palsy, epilepsy, or autism;
 - (ii) any other condition found to be closely related to mental retardation, because this condition results in similar impairment of general intellectual functioning or adaptive behavior or requires similar treatment and services; or
 - (iii) dyslexia resulting from a disability described in this subdivision;
 - (B) originates before the person is eighteen (18) years of age;
 - (C) has continued or is expected to continue indefinitely; and
 - (D) constitutes a substantial disability to the individual's ability to function normally in society.
- (2) For purposes of IC 12-10-7 and IC 12-28-1 before July 1, 1993, and for purposes of IC 12 after June 30, 1993, the term means a severe, chronic disability of an individual that:
 - (A) is attributable to a mental or physical impairment, or a combination of mental and physical impairments (other than a sole diagnosis of mental illness);
 - (B) is manifested before the individual is twenty-two (22) years of age;
 - (C) is likely to continue indefinitely;
 - (D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; and
 - (E) results in substantial limitations in at least three (3) of the following:
 - (i) Self-care.
 - (ii) Receptive and expressive language.

- (iii) Learning.
- (iv) Mobility.
- (v) Self-direction.
- (vi) Capacity for independent living.
- (vii) Economic self-sufficiency.

As added by P.L.2-1992, SEC.1. Amended by P.L.23-1993, SEC.37.

IC 12-7-2-62

Sec. 62. "Developmentally disabled individual", for purposes of IC 12-11-1.1 and IC 12-11-2.1, refers to an individual who has a developmental disability.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.16.

IC 12-7-2-63

(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-64

Sec. 64. "Director" refers to the following:

- (1) With respect to a particular division, the director of the division.
- (2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.
- (3) For purposes of IC 12-10-15, the term refers to the director of the division of disabilities, aging, and rehabilitative services.
- (4) For purposes of IC 12-25, the term refers to the director of the division of mental health.
- (5) For purposes of IC 12-26, the term:
 - (A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and
 - (B) includes the director's designee.
- (6) If subdivisions (1) through (5) do not apply, the term refers to the director of any of the divisions.

As added by P.L.2-1992, SEC.1. Amended by P.L.73-1998, SEC.1.

IC 12-7-2-65

Sec. 65. "Disabled", for purposes of IC 12-10-10, has the meaning set forth in IC 12-10-10-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-66

Sec. 66. "Disabled person", for purposes of IC 12-14-15, refers to an individual described in IC 12-14-15-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-67

Sec. 67. "Discharge", for purposes of IC 12-26, means the final and complete release of a mentally ill individual from the care, treatment, training, or detention at a facility to which the individual was committed or entered voluntarily.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-68

Sec. 68. "Distressed township", for purposes of IC 12-20-25, has the meaning set forth in IC 12-20-25-4.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-69

Division

Sec. 69. (a) "Division", except as provided in subsections (b) and (c), refers to any of the following:

- (1) The division of disability, aging, and rehabilitative services established by IC 12-9-1-1.
- (2) The division of family and children established by IC 12-13-1-1.
- (3) The division of mental health and addiction established by IC 12-21-1-1.
- (b) The term refers to the following:
 - (1) For purposes of the following statutes, the division of disability, aging, and rehabilitative services established by IC 12-9-1-1:
 - (A) IC 12-9.
 - (B) IC 12-10.
 - (C) IC 12-11.
 - (D) IC 12-12.
 - (E) IC 12-12.5.
 - (2) For purposes of the following statutes, the division of family and children established by IC 12-13-1-1:

- (A) IC 12-13.
- (B) IC 12-14.
- (C) IC 12-15.
- (D) IC 12-16.
- (E) IC 12-17.
- (F) IC 12-17.2.
- (G) IC 12-17.4.
- (H) IC 12-18.
- (I) IC 12-19.
- (J) IC 12-20.
- (3) For purposes of the following statutes, the division of mental health and addiction established by IC 12-21-1-1:
 - (A) IC 12-21.
 - (B) IC 12-22.
 - (C) IC 12-23.
 - (D) IC 12-25.

(c) With respect to a particular state institution, the term refers to the division whose director has administrative control of and responsibility for the state institution.

(d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term refers to the division whose director has administrative control of and responsibility for the appropriate state institution.

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.15; P.L.81-1992, SEC.15; P.L.1-1993, SEC.82; P.L.4-1993, SEC.23; P.L.5-1993, SEC.36; P.L.1-1994, SEC.50; P.L.40-1994, SEC.12; P.L.215-2001, SEC.26; P.L.283-2001, SEC.10; P.L.1-2002, SEC.50; P.L.255-2003, SEC.9; P.L.243-2003, SEC.2.

IC 12-7-2-69.5

Domestic violence

Sec. 69.5. "Domestic violence", for purposes of IC 12-18-8, has the meaning set forth in IC 34-6-2-34.5.

As added by P.L.181-2003, SEC.2.

IC 12-7-2-70

Sec. 70. "Domestic violence prevention and treatment center", for purposes of IC 12-18-3 and IC 12-18-4, means an organized entity:

(1) established by:

(A) a city, town, county, or township; or

(B) an entity exempted from the Indiana gross income tax under IC 6-2.1-3-20; and

(2) created to provide services to prevent and treat domestic violence between spouses or former spouses.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-71

Sec. 71. "Drug", for purposes of IC 12-23, means a drug or a controlled substance (as defined in IC 35-48-1).

As added by P.L.2-1992, SEC.1.

IC 12-7-2-72

Sec. 72. "Drug abuse", for purposes of IC 12-23, means:

(1) psychological or physical dependence on the effect of drugs or harmful substances; or

(2) abuse of the use of drugs or harmful substances;

that is harmful to the individual or society.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-73

Sec. 73. "Drug abuser", for purposes of IC 12-23, means an individual who:

(1) has developed a psychological or physical dependence on the effects of drugs or harmful substances; or

(2) abuses the use of drugs or harmful substances;

so that the individual or society is harmed.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-73.2

Sec. 73.2. "Drug-disease contraindication", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-6.

As added by P.L.75-1992, SEC.6.

IC 12-7-2-73.4

Sec. 73.4. "Drug-drug interaction", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-7.

As added by P.L.75-1992, SEC.7.

IC 12-7-2-73.6

Sec. 73.6. "Drug utilization review" or "DUR", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-8.

As added by P.L.75-1992, SEC.8.

IC 12-7-2-74

Sec. 74. "Early intervention services", for purposes of IC 12-17-15, has the meaning set forth in IC 12-17-15-3.

As added by P.L.2-1992, SEC.1. Amended by P.L.21-1992, SEC.5.

IC 12-7-2-74.5

YAMD.1997

Sec. 74.5. "EBT program", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.2-1997, SEC.31.

IC 12-7-2-75

Sec. 75. "Eligible household", for purposes of IC 12-14-11, has the meaning set forth in IC 12-14-11-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-76

Sec. 76. (a) "Eligible individual", for purposes of IC 12-10-10, has the meaning set forth in IC 12-10-10-4.

(b) "Eligible individual" has the meaning set forth in IC 12-14-18-1.5 for purposes of the following:

- (1) IC 12-10-6.
- (2) IC 12-14-2.
- (3) IC 12-14-18.
- (4) IC 12-14-19.
- (5) IC 12-15-2.
- (6) IC 12-15-3.
- (7) IC 12-16-3.
- (8) IC 12-17-1.
- (9) IC 12-20-5.5.

As added by P.L.2-1992, SEC.1. Amended by P.L.128-1999, SEC.4.

IC 12-7-2-76.5**Emergency**

Sec. 76.5. (a) "Emergency", for purposes of IC 12-20, means an unpredictable circumstance or a series of unpredictable circumstances that:

- (1) place the health or safety of a household or a member of a household in jeopardy; and
- (2) cannot be remedied in a timely manner by means other than township assistance.

(b) "Emergency", for purposes of IC 12-17.6, has the meaning set forth in IC 12-17.6-1-2.6.

As added by P.L.51-1996, SEC.6. Amended by P.L.95-2000, SEC.1; P.L.283-2001, SEC.12; P.L.255-2003, SEC.10.

IC 12-7-2-76.8**Employed; employee; employment; employs**

Sec. 76.8. "Employed", "employee", "employment", or "employs", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.3.

As added by P.L.18-2003, SEC.3.

IC 12-7-2-77

Sec. 77. "Endangered adult", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-77.5

Sec. 77.5. "Estate", for purposes of IC 12-15-9, has the meaning set forth in IC 12-15-9-0.5.

As added by P.L.152-1995, SEC.1.

IC 12-7-2-78

(Repealed by P.L.40-1994, SEC.83.)

IC 12-7-2-78.5

Sec. 78.5. "Essential person", for purposes of IC 12-14, has the meaning set forth in IC 12-14-2-0.5.
As added by P.L.46-1995, SEC.3.

IC 12-7-2-79

Sec. 79. "Executive authority", for purposes of IC 12-28-3, has the meaning set forth in IC 12-28-3-3.
As added by P.L.2-1992, SEC.1.

IC 12-7-2-80

(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-81

Sec. 81. (a) "Expenses and obligations", for purposes of the statutes listed in subsection (b), refer to expenses, obligations, assistance, and claims:

- (1) of a county office;
- (2) incurred in the administration of the welfare services of the county;
- (3) incurred as provided by law; and
- (4) for:
 - (A) assistance for aged persons in need;
 - (B) assistance to dependent children; and
 - (C) other assistance or services that a county office is authorized by law to allow.

(b) This section applies to the following statutes:

- (1) IC 12-13.
- (2) IC 12-14.
- (3) IC 12-15.
- (4) IC 12-17-1.
- (5) IC 12-17-2.
- (6) IC 12-17-3.
- (7) IC 12-17-9.
- (8) IC 12-17-10.
- (9) IC 12-17-11.
- (10) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.4-1993, SEC.24; P.L.5-1993, SEC.37.

IC 12-7-2-82

Sec. 82. "Facility" means the following:

- (1) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-3.
- (2) For purposes of IC 12-17-13, the meaning set forth in IC 12-17-13-2.
- (3) For purposes of IC 12-26, a psychiatric hospital, a community mental health center, another institution, a program, a managed care provider, or a child caring institution:

(A) where a mentally ill individual can receive rehabilitative treatment, or habilitation and care, in the least restrictive environment suitable for the necessary care, treatment, and protection of the individual and others; and

(B) that has adequate space and treatment staff appropriate to the needs of the individual as determined by the superintendent of the facility.

The term includes all services, programs, and centers of the facility, wherever located.

- (4) For purposes of IC 12-15-32, the meaning set forth in IC 12-15-32-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.62-1993, SEC.2; P.L.40-1994, SEC.13.

IC 12-7-2-82.2**Family or household member**

Sec. 82.2. "Family or household member", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-3.

As added by P.L.181-2003, SEC.3.

IC 12-7-2-82.3

Sec. 82.3. "Family preservation services" means short term, highly intensive services designed to protect, treat, and support the following:

- (1) A family with a child at imminent risk of placement by enabling the family to remain intact and care for the child at home.
- (2) A family that adopts or plans to adopt an abused or a neglected child who is at imminent risk of

placement or adoption disruption by assisting the family to achieve or maintain a stable, successful adoption of the child.

As added by P.L. 74-1994, SEC.2.

IC 12-7-2-82.5

Sec. 82.5. "Family support program", for purposes of IC 12-8-14, has the meaning set forth in IC 12-8-14-1.

As added by P.L. 137-1993, SEC.1. Amended by P.L. 272-1999, SEC.17.

IC 12-7-2-83

Sec. 83. "Federal department", for purposes of IC 12-26-9, has the meaning set forth in IC 12-26-9-1.

As added by P.L. 2-1992, SEC.1.

IC 12-7-2-84

Sec. 84. "Federal facility", for purposes of IC 12-26-9, has the meaning set forth in IC 12-26-9-2.

As added by P.L. 2-1992, SEC.1.

IC 12-7-2-85

Sec. 85. "Federal income poverty level", for purposes of IC 12-15-2, has the meaning set forth in IC 12-15-2-1.

As added by P.L. 2-1992, SEC.1.

IC 12-7-2-85.2

Final judgment

Sec. 85.2. "Final judgment", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-4.

As added by P.L. 181-2003, SEC.4.

IC 12-7-2-85.3

Sec. 85.3. (a) "Financial institution", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

(b) "Financial institution, for purposes of IC 12-17-2, has the meaning set forth in IC 12-17-2-1.7.

As added by P.L. 257-1997(ss), SEC.3.

IC 12-7-2-85.5

(Repealed by P.L. 108-1997, SEC.10.)

IC 12-7-2-86

Sec. 86. "Fiscal body", for purposes of IC 12-20, has the meaning set forth in IC 36-1-2-6.

As added by P.L. 2-1992, SEC.1.

IC 12-7-2-87

Sec. 87. "Flight" or "fled", for purposes of IC 12-28-3, has the meaning set forth in IC 12-28-3-1.

As added by P.L. 2-1992, SEC.1.

IC 12-7-2-87.8

Sec. 87.8. "Food retailer", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L. 257-1997(ss), SEC.4.

IC 12-7-2-88

Sec. 88. "Forcible felony", for purposes of IC 12-23, has the meaning set forth in IC 35-41-1.

As added by P.L. 2-1992, SEC.1.

IC 12-7-2-89

Sec. 89. (a) "Foster care", for purposes of the statutes listed in subsection (b), means living in a place licensed under IC 12-17-4.

(b) This section applies to the following statutes:

- (1) IC 12-13.
- (2) IC 12-14.
- (3) IC 12-15.
- (4) IC 12-17-1.
- (5) IC 12-17-2.
- (6) IC 12-17-3.
- (7) IC 12-17-9.
- (8) IC 12-17-10.
- (9) IC 12-17-11.
- (10) IC 12-17-4.

(11) IC 12-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.81-1992, SEC.16; P.L.1-1993, SEC.83.

IC 12-7-2-90

Sec. 90. "Foster family home", for purposes of IC 12-17.4, means a place where an individual resides and provides care and supervision on a twenty-four (24) hour basis to a child who:

(1) is not the:

(A) child;

(B) stepchild;

(C) grandchild;

(D) niece;

(E) nephew; or

(F) sibling;

of the individual providing care and supervision;

(2) is separated from the child's:

(A) parent;

(B) stepparent;

(C) guardian;

(D) custodian; or

(E) other relative; and

(3) is receiving care and supervision under an order of a juvenile court or for the purposes of placement.

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.16; P.L.81-1992, SEC.17; P.L.1-1993, SEC.84; P.L.61-1993, SEC.4.

IC 12-7-2-91

Fund

Sec. 91. "Fund" means the following:

(1) For purposes of IC 12-12-1-9, the fund described in IC 12-12-1-9.

(2) For purposes of IC 12-13-8, the meaning set forth in IC 12-13-8-1.

(3) For purposes of IC 12-15-20, the meaning set forth in IC 12-15-20-1.

(4) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-4.

(5) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-3.

(6) For purposes of IC 12-18-4, the meaning set forth in IC 12-18-4-1.

(7) For purposes of IC 12-18-5, the meaning set forth in IC 12-18-5-1.

(8) For purposes of IC 12-19-7, the meaning set forth in IC 12-19-7-2.

(9) For purposes of IC 12-23-2, the meaning set forth in IC 12-23-2-1.

(10) For purposes of IC 12-23-18, the meaning set forth in IC 12-23-18-4.

(11) For purposes of IC 12-24-6, the meaning set forth in IC 12-24-6-1.

(12) For purposes of IC 12-24-14, the meaning set forth in IC 12-24-14-1.

(13) For purposes of IC 12-30-7, the meaning set forth in IC 12-30-7-3.

As added by P.L.2-1992, SEC.1. Amended by P.L.36-1994, SEC.12; P.L.91-1996, SEC.3; P.L.273-1999, SEC.164; P.L.273-1999, SEC.60; P.L.14-2000, SEC.27; P.L.11-2003, SEC.1.

IC 12-7-2-91.4

Sec. 91.4. "Gatekeeper", for purposes of IC 12-24, IC 12-25, and IC 12-26, means an entity identified in IC 12-24-12-10 that is actively involved in the evaluation and planning of and treatment for a committed individual beginning after the commitment through the planning of the individual's transition back into the community, including case management services for the individual in the community.

As added by P.L.6-1995, SEC.3. Amended by P.L.108-1996, SEC.1.

IC 12-7-2-92

Sec. 92. "Governmental entity", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-93

Sec. 93. "Governor", for purposes of IC 12-28-3, has the meaning set forth in IC 12-28-3-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-94

Sec. 94. "Grantee agency", for purposes of IC 12-8-10, has the meaning set forth in IC 12-8-10-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-95

Sec. 95. (a) "Grant-in-aid", for purposes of the statutes listed in subsection (b), means any money paid by the federal government to the state or any money paid by the state to a county for the purpose of defraying any of the expenses, claims, allowances, assistance, or obligations authorized by this title.

(b) This section applies to the following statutes:

- (1) IC 12-13.
- (2) IC 12-14.
- (3) IC 12-15.
- (4) IC 12-17-1.
- (5) IC 12-17-2.
- (6) IC 12-17-3.
- (7) IC 12-17-9.
- (8) IC 12-17-10.
- (9) IC 12-17-11.
- (10) IC 12-19.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-96

Sec. 96. "Gravely disabled", for purposes of IC 12-26, means a condition in which an individual, as a result of mental illness, is in danger of coming to harm because the individual:

- (1) is unable to provide for that individual's food, clothing, shelter, or other essential human needs; or
- (2) has a substantial impairment or an obvious deterioration of that individual's judgment, reasoning, or behavior that results in the individual's inability to function independently.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-97

(Repealed by P.L.27-1992, SEC.30.)

IC 12-7-2-98

Sec. 98. "Group", for purposes of IC 12-8-10, has the meaning set forth in IC 12-8-10-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-98.5

Sec. 98.5. "Group home", for purposes of IC 12-17.4, means a residential structure in which care is provided on a twenty-four (24) hour basis for not more than ten (10) children.

As added by P.L.20-1992, SEC.17 and P.L.81-1992, SEC.18. Amended by P.L.1-1993, SEC.85.

IC 12-7-2-99

Sec. 99. "A person with a disability" means, for purposes of the following statutes, an individual who has a physical or mental disability and meets the program eligibility requirements of the division of disability, aging, and rehabilitative services:

- (1) IC 12-8-1-11.
- (2) IC 12-12-1.
- (3) IC 12-12-6.

As added by P.L.2-1992, SEC.1. Amended by P.L.138-1993, SEC.1; P.L.23-1993, SEC.38; P.L.4-1993, SEC.25; P.L.5-1993, SEC.38; P.L.272-1999, SEC.18.

IC 12-7-2-100

(Repealed by P.L.21-1992, SEC.16.)

IC 12-7-2-101

Sec. 101. "Harmful substance", for purposes of IC 12-23, means any substance used by an individual to produce the effect of a controlled substance, although the substance is not classified as a controlled substance under IC 35-48.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-102

(Repealed by P.L.40-1994, SEC.83.)

IC 12-7-2-103

Sec. 103. "Health facility" means the following:

- (1) For purposes of IC 12-10-5.5, the meaning set forth in IC 12-10-5.5-2.
- (2) For purposes of IC 12-10-12, the meaning set forth in IC 12-10-12-3.

As added by P.L.2-1992, SEC.1. Amended by P.L.139-1993, SEC.1; P.L.106-1997, SEC.2.

IC 12-7-2-103.5

Sec. 103.5. "Health related services", for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-2.

As added by P.L.73-1998, SEC.2.

IC 12-7-2-104

Sec. 104. "State of Indiana general educational development (GED) diploma," for purposes of IC 12-14-5, has the meaning set forth in IC 12-14-5-2.

As added by P.L.2-1992, SEC.1. Amended by P.L.149-1995, SEC.2.

IC 12-7-2-104.5

Sec. 104.5. "Holocaust victim's settlement payment" has the meaning set forth in IC 12-14-18-1.7 for purposes of the following:

- (1) IC 12-10-6.
- (2) IC 12-14-2
- (3) IC 12-14-18.
- (4) IC 12-14-19.
- (5) IC 12-15-2.
- (6) IC 12-15-3.
- (7) IC 12-16-3.
- (8) IC 12-17-1.
- (9) IC 12-20-5.5.

As added by P.L.128-1999, SEC.5.

IC 12-7-2-105

Sec. 105. "Home care services", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-106

Sec. 106. "Home energy", for purposes of IC 12-14-11, has the meaning set forth in IC 12-14-11-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-107

Sec. 107. "Home energy supplier", for purposes of IC 12-14-11, has the meaning set forth in IC 12-14-11-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-108

Sec. 108. "Home health agency", for purposes of IC 12-15-34, has the meaning set forth in IC 12-15-34-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-109

Sec. 109. "Home health services", for purposes of IC 12-15-34, has the meaning set forth in IC 12-15-34-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-109.5

Sec. 109.5. "Hospice", for purposes of IC 12-15-40, has the meaning set forth in IC 12-15-40-2.

As added by P.L.24-1997, SEC.8.

IC 12-7-2-109.6

Sec. 109.6. "Hospice program", for purposes of IC 12-15-40, has the meaning set forth in IC 12-15-40-3.

As added by P.L.24-1997, SEC.9.

IC 12-7-2-109.7

Sec. 109.7. "Hospice program patient", for purposes of IC 12-15-40, has the meaning set forth in IC 12-15-40-4.

As added by P.L.24-1997, SEC.10.

IC 12-7-2-109.8

Sec. 109.8. "Hospice services", for purposes of IC 12-15-5 and IC 12-15-40, has the meaning set forth in IC 12-15-40-5.

As added by P.L.24-1997, SEC.11.

IC 12-7-2-110**Hospital**

Sec. 110. "Hospital" means the following:

- (1) For purposes of IC 12-15-11.5, the meaning set forth in IC 12-15-11.5-1.
- (2) For purposes of IC 12-15-18, the meaning set forth in IC 12-15-18-2.
- (3) For purposes of IC 12-16, except IC 12-16-1, the term refers to a hospital licensed under IC 16-21.

As added by P.L.2-1992, SEC.1. Amended by P.L.2-1993, SEC.75; P.L.142-2000, SEC.1; P.L.283-2001, SEC.14; P.L.120-2002, SEC.10; P.L.255-2003, SEC.11.

IC 12-7-2-110.5

Sec. 110.5. "Household", for purposes of IC 12-20, means any of the following:

- (1) An individual living alone.
- (2) A family related by blood.
- (3) A group of individuals living together at one (1) residence as a domestic unit with mutual economic dependency.

As added by P.L.51-1996, SEC.7.

IC 12-7-2-110.7

Sec. 110.7. "Housing with services establishment", for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-3.

As added by P.L.73-1998, SEC.3.

IC 12-7-2-111a

Note: This version of section effective until 1-1-2000. See also following version of this section, effective 1-1-2000.

Sec. 111. (a) "Immediate family", for purposes of the statutes listed in subsection (b), means the following:

- (1) If a Medicaid applicant is married, the applicant's spouse and dependent children less than twenty-one (21) years of age.
- (2) If a Medicaid applicant is not married, the following:
 - (A) If the applicant is divorced, the parent having custody.
 - (B) If the applicant is less than twenty-one (21) years of age:
 - (i) the parent having custody; and
 - (ii) the dependent children less than twenty-one (21) years of age of the parent or parents.
 - (C) If clauses (A) and (B) do not apply, the applicant's parents.
- (b) This section applies to the following statutes:
 - (1) IC 12-14-1 through IC 12-14-9.
 - (2) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

As added by P.L.2-1992, SEC.1.

Note: See also following version of this section, effective 1-1-2000.

IC 12-7-2-111b

Note: This version of section effective 1-1-2000. See also preceding version of this section, effective until 1-1-2000.

Sec. 111. (a) "Immediate family", for purposes of the statutes listed in subsection (b), means the following:

- (1) If a Medicaid applicant is married, the applicant's spouse and dependent children less than twenty-one (21) years of age.
- (2) If a Medicaid applicant is not married, the following:
 - (A) If the applicant is divorced, the parent having custody.
 - (B) If the applicant is less than twenty-one (21) years of age:
 - (i) the parent having custody; and
 - (ii) the dependent children less than twenty-one (21) years of age of the parent or parents.
 - (C) If clauses (A) and (B) do not apply, the applicant's parents.
- (b) This section applies to the following statutes:
 - (1) IC 12-14-1 through IC 12-14-9.5.
 - (2) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

As added by P.L.2-1992, SEC.1. Amended by P.L.273-1999, SEC.75.

Note: See also preceding version of this section, effective until 1-1-2000.

IC 12-7-2-112

Sec. 112. "Incapacitated", for purposes of IC 12-23, means having been judged incapacitated under IC 29-3 by a court.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-113

Sec. 113. "Incapacitated by alcohol", for purposes of IC 12-23, means that an individual, as the result of the use of alcohol, has the individual's judgment impaired and is incapable of realizing and making a rational

decision with respect to the individual's need for treatment.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-114

Sec. 114. "Incapacitated individual", for purposes of IC 12-10-7, has the meaning set forth in IC 12-10-7-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-115

Sec. 115. "Indebtedness", for purposes of IC 12-20-25, has the meaning set forth in IC 12-20-25-5.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-116

Sec. 116. "Indigent adult", for purposes of IC 12-10-7, has the meaning set forth in IC 12-10-7-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-117

Sec. 117. "Indirect cost", for purposes of IC 12-19-6-5, has the meaning set forth in IC 12-19-6-5.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-117.2

(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-117.4

Sec. 117.4. "Infants and toddlers with disabilities", for purposes of IC 12-17-15, has the meaning set forth in IC 12-17-15-4.

As added by P.L.21-1992, SEC.6.

IC 12-7-2-118

Sec. 118. "Inpatient days", for purposes of IC 12-16-8, has the meaning set forth in IC 12-16-8-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-118.8

Institution

Sec. 118.8. "Institution", for purposes of IC 12-10-11.5, has the meaning set forth in IC 12-10-11.5-1.

As added by P.L.274-2003, SEC.3.

IC 12-7-2-119

Sec. 119. "Institution for the mentally diseased", for purposes of IC 12-15-2-9, has the meaning set forth in IC 12-15-2-9.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-120a

Note: This version of section effective until 1-1-2000. See also following version of this section, effective 1-1-2000.

Sec. 120. (a) "Insurer", for purposes of the statutes listed in subsection (b), means an insurance company, a health maintenance organization (as defined in IC 27-13-1-19), a self-funded employee benefit plan, a pension fund, a retirement system, or a similar entity that:

(1) does business in Indiana; and

(2) is under an obligation to make payments for medical services as a result of injury, illness, or disease suffered by an individual.

(b) This section applies to the following statutes:

(1) IC 12-14-1 through IC 12-14-9.

(2) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

As added by P.L.2-1992, SEC.1. Amended by P.L.26-1994, SEC.2.

Note: See also following version of this section, effective 1-1-2000.

IC 12-7-2-120b

Note: This version of section effective 1-1-2000. See also preceding version of this section, effective until 1-1-2000.

Sec. 120. (a) "Insurer", for purposes of the statutes listed in subsection (b), means an insurance company, a health maintenance organization (as defined in IC 27-13-1-19), a self-funded employee benefit plan, a pension fund, a retirement system, or a similar entity that:

(1) does business in Indiana; and

(2) is under an obligation to make payments for medical services as a result of injury, illness, or disease suffered by an individual.

(b) This section applies to the following statutes:

(1) IC 12-14-1 through IC 12-14-9.5.

(2) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

As added by P.L.2-1992, SEC.1. Amended by P.L.26-1994, SEC.2; P.L.273-1999, SEC.76.

Note: See also preceding version of this section, effective until 1-1-2000.

IC 12-7-2-120.5

Sec. 120.5. "Interim period", for purposes of IC 12-20-27, has the meaning set forth in IC 12-20-27-1.5.

As added by P.L.51-1996, SEC.8.

IC 12-7-2-121

(Repealed by P.L.1-1993, SEC.86.)

IC 12-7-2-121.5

Sec. 121.5. "Intervention", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-9.

As added by P.L.75-1992, SEC.9.

IC 12-7-2-122

Sec. 122. "Intoxicated", for purposes of IC 12-23, means the state of an individual in which the individual's mental or physical functioning is substantially impaired as a result of the use of alcohol, drugs, or harmful substances.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-122.5

Sec. 122.5. "Legal representative", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-3.3.

As added by P.L.139-1993, SEC.2.

IC 12-7-2-123

(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-123.2

Sec. 123.2. "Licensee" means the following:

(1) For the purposes of IC 12-17.2, a person who holds a valid license issued under IC 12-17.2.

(2) For the purposes of IC 12-17.4, a person who holds a valid license issued under IC 12-17.4.

As added by P.L.20-1992, SEC.18; P.L.81-1992, SEC.19. Amended by P.L.1-1993, SEC.87.

IC 12-7-2-124

Sec. 124. "Life threatening emergency", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-4.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-124.7

Local domestic violence fatality review team

Sec. 124.7. "Local domestic violence fatality review team", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-5.

As added by P.L.181-2003, SEC.5.

IC 12-7-2-125

Sec. 125. "Long term care", for purposes of IC 12-15-39.6, has the meaning set forth in IC 12-15-39.6-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.12.

IC 12-7-2-125.5

Sec. 125.5. (a) "Long term care facility", for purposes of IC 12-15-39.6, has the meaning set forth in IC 12-15-39.6-2.

(b) "Long term care facility", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-3.6.

As added by P.L.139-1993, SEC.3. Amended by P.L.75-1994, SEC.1; P.L.24-1997, SEC.13.

IC 12-7-2-126

Sec. 126. "Long term care insurance", for purposes of IC 12-15-39.6, has the meaning set forth in IC 12-15-39.6-3.

As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.14.

IC 12-7-2-126.1

Sec. 126.1. "Maintain", for purposes of IC 12-21-2-3 and IC 12-24-1-7, means that the funding of appropriate placements and services must be continued after the placements and services are created.

As added by P.L.40-1994, SEC.14.

IC 12-7-2-126.3

Sec. 126.3. "Long term care services eligibility screen", for purposes of IC 12-10-10, has the meaning set

forth in IC 12-10-10-4.5.

As added by P.L.150-1995, SEC.3.

IC 12-7-2-126.5

Sec. 126.5. "Low income utilization rate", for purposes of IC 12-15-16-6, has the meaning set forth in IC 12-15-16-6(a).

As added by P.L.277-1993(ss), SEC.68.

IC 12-7-2-127a

Note: This version of section effective until 1-1-2000. See also following version of this section, effective 1-1-2000.

Sec. 127. (a) "Managed care provider", for purposes of IC 12-14-1 through IC 12-14-9 and IC 12-15 (except IC 12-15-21, IC 12-15-33, and IC 12-15-34) means either of the following:

(1) A physician licensed under IC 25-22.5 who:

(A) is primarily engaged in general practice, family practice, internal medicine, pediatric medicine, or obstetrics and gynecology; and

(B) has entered into a provider agreement for the provision of physician services under IC 12-15-11-4.

(2) A partnership, corporation, or other entity that:

(A) employs or contracts with physicians licensed under IC 25-22.5 who are primarily engaged in general practice, family practice, internal medicine, pediatric medicine, or obstetrics and gynecology; and

(B) has entered into a provider agreement for the provision of physician services under IC 12-15-11-4.

(b) "Managed care provider", for purposes of IC 12-21-1 through IC 12-29-2, means an organization:

(1) that:

(A) for mental health services, is defined under 42 U.S.C.

300x-2(c); or

(B) provides addiction services;

(2) that has entered into a provider agreement with the division of mental health under IC 12-21-2-7 to provide a continuum of care in the least restrictive, most appropriate setting; and

(3) that is operated by at least one (1) of the following:

(A) A city, town, county, or other political subdivision of Indiana.

(B) An agency of Indiana or of the United States.

(C) A political subdivision of another state.

(D) A hospital owned or operated by:

(i) a unit of government; or

(ii) a building authority that is organized for the purpose of constructing facilities to be leased to units of government.

(E) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.

(F) A nonprofit corporation incorporated in another state.

(G) A university or college.

As added by P.L.2-1992, SEC.1. Amended by P.L.40-1994, SEC.15; P.L.6-1995, SEC.4.

Note: See also following version of this section, effective 1-1-2000.

IC 12-7-2-127b

Note: This version of section effective 1-1-2000. See also preceding version of this section, effective until 1-1-2000.

Sec. 127. (a) "Managed care provider", for purposes of IC 12-14-1 through IC 12-14-9.5 and IC 12-15 (except IC 12-15-21, IC 12-15-33, and IC 12-15-34) means either of the following:

(1) A physician licensed under IC 25-22.5 who:

(A) is primarily engaged in general practice, family practice, internal medicine, pediatric medicine, or obstetrics and gynecology; and

(B) has entered into a provider agreement for the provision of physician services under IC 12-15-11-4.

(2) A partnership, corporation, or other entity that:

(A) employs or contracts with physicians licensed under IC 25-22.5 who are primarily engaged in general practice, family practice, internal medicine, pediatric medicine, or obstetrics and gynecology; and

(B) has entered into a provider agreement for the provision of physician services under IC 12-15-11-4.

(b) "Managed care provider", for purposes of IC 12-21-1 through IC 12-29-2, means an organization:

(1) that:

(A) for mental health services, is defined under 42 U.S.C. 300x-2(c); or

(B) provides addiction services;

- (2) that has entered into a provider agreement with the division of mental health under IC 12-21-2-7 to provide a continuum of care in the least restrictive, most appropriate setting; and
- (3) that is operated by at least one (1) of the following:
 - (A) A city, town, county, or other political subdivision of Indiana.
 - (B) An agency of Indiana or of the United States.
 - (C) A political subdivision of another state.
 - (D) A hospital owned or operated by:
 - (i) a unit of government; or
 - (ii) a building authority that is organized for the purpose of constructing facilities to be leased to units of government.
 - (E) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.
 - (F) A nonprofit corporation incorporated in another state.
 - (G) A university or college.

As added by P.L.2-1992, SEC.1. Amended by P.L.40-1994, SEC.15; P.L.6-1995, SEC.4; P.L.273-1999, SEC.77.

Note: See also preceding version of this section, effective until 1-1-2000.

IC 12-7-2-127.5

Sec. 127.5. "Medicaid inpatient utilization rate", for purposes of IC 12-15-16-6, has the meaning set forth in IC 12-15-16-6(b).

As added by P.L.277-1993(ss), SEC.69.

IC 12-7-2-128

Sec. 128. "Medicaid program" refers to the program established under IC 12-15.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-129

Sec. 129. "Member", for purposes of IC 12-8-2, has the meaning set forth in IC 12-8-2-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-129.2

Sec. 129.2. "Member of the applicant's household", for purposes of IC 12-20-6-0.5, has the meaning set forth in IC 12-20-6-0.5.

As added by P.L.2-1996, SEC.231.

IC 12-7-2-130

Sec. 130. "Mental illness" means the following:

(1) For purposes of IC 12-23-5, IC 12-24, and IC 12-26, a psychiatric disorder that:

- (A) substantially disturbs an individual's thinking, feeling, or behavior; and
- (B) impairs the individual's ability to function.

The term includes mental retardation, alcoholism, and addiction to narcotics or dangerous drugs.

(2) For purposes of IC 12-28-4 and IC 12-28-5, a psychiatric disorder that:

- (A) substantially disturbs an individual's thinking, feeling, or behavior; and
- (B) impairs the individual's ability to function.

The term does not include developmental disability.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-131

Mentally ill individual

Sec. 131. "Mentally ill individual", for purposes of IC 12-21-2, IC 12-22-1, and IC 12-24-17, means an individual who:

(1) has a psychiatric disorder that substantially impairs the individual's mental health; and

(2) requires care, treatment, training, or detention:

- (A) because of the psychiatric disorder; or
- (B) for the welfare of the individual or others of the community in which the individual resides.

As added by P.L.2-1992, SEC.1. Amended by P.L.25-2003, SEC.1.

IC 12-7-2-131.5

Sec. 131.5. "Monitor" means the following:

(1) For the purposes of IC 12-17.2, observation to determine the licensee's continuing compliance with IC 12-17.2.

(2) For the purposes of IC 12-17.4, observation to determine the licensee's continuing compliance with IC

12-17.4.

As added by P.L.20-1992, SEC.19; P.L.81-1992, SEC.20. Amended by P.L.1-1993, SEC.88.

IC 12-7-2-132

(Repealed by P.L.272-1999, SEC.66.)

IC 12-7-2-133

Sec. 133. "Nursing facility" has the meaning set forth in 42 U.S.C. 1396r(a).

As added by P.L.2-1992, SEC.1.

IC 12-7-2-133.5

Sec. 133.5. "Obligor", for purposes of IC 12-17-2, has the meaning set forth in IC 12-17-2-2.5.

As added by P.L.2-1996, SEC.232. Amended by P.L.23-1996, SEC.12.

IC 12-7-2-134

Office

Sec. 134. "Office" means the following:

(1) Except as provided in subdivisions (2) and (3), the office of Medicaid policy and planning established by IC 12-8-6-1.

(2) For purposes of IC 12-10-13, the meaning set forth in IC 12-10-13-4.

(3) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-4.

As added by P.L.2-1992, SEC.1. Amended by P.L.108-1997, SEC.1; P.L.58-1998, SEC.1; P.L.273-1999, SEC.165; P.L.283-2001, SEC.15; P.L.255-2003, SEC.12.

IC 12-7-2-135

Sec. 135. "Office of the secretary" refers to the office of the secretary of family and social services established by IC 12-8-1-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-135.3

Sec. 135.3. "Ombudsman", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-4.5.

As added by P.L.139-1993, SEC.4.

IC 12-7-2-135.4

Sec. 135.4. "Operator", for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-4.

As added by P.L.73-1998, SEC.4.

IC 12-7-2-135.5

Sec. 135.5. "Overutilization or under utilization", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-10.

As added by P.L.75-1992, SEC.10.

IC 12-7-2-136

Sec. 136. "Patient" means the following:

(1) For purposes of IC 12-24-1-4, an individual who is admitted to a state institution for observation, diagnosis, or treatment.

(2) For purposes of IC 12-24-7, the meaning set forth in IC 12-24-7-1.

(3) For purposes of IC 12-24-6, IC 12-24-13, IC 12-24-14 and IC 12-24-15, a mentally ill individual, an individual who appears to be mentally ill, or a mentally retarded individual who is:

(A) in or under the supervision and control of a state institution; or

(B) because of mental illness, under the supervision and control of a circuit, superior, or juvenile court.

(4) For purposes of IC 12-24-17, the meaning set forth in IC 12-24-17-2.

(5) For purposes of IC 12-27, an individual receiving mental health services or developmental training. The term includes a client of a service provider.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-137

Sec. 137. (a) "Person", except as provided in subsections (b) and (c), means an association, a corporation, a limited liability company, a governmental entity, an individual, or a partnership.

(b) "Person", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

(c) "Person", for purposes of IC 12-17.2 and IC 12-17.4, means an individual who is at least twenty-one (21) years of age, a corporation, a partnership, a voluntary association, or other entity.

As added by P.L.2-1992, SEC.1. Amended by P.L.20-1992, SEC.20; P.L.81-1992, SEC.21; P.L.1-1993, SEC.89; P.L.8-1993, SEC.181; P.L.257-1997(ss), SEC.5.

IC 12-7-2-137.7

Sec. 137.7. "Pharmacist", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-11.
As added by P.L.75-1992, SEC.11.

IC 12-7-2-138

Sec. 138. "Physician" means the following:

- (1) For purposes of IC 12-15-35, the meaning set forth in IC 12-15-35-12.
- (2) For purposes of IC 12-26, either of the following:
 - (A) An individual who holds a license to practice medicine under IC 25-22.5.
 - (B) A medical officer of the United States government who is in Indiana performing the officer's official duties.

As added by P.L.2-1992, SEC.1. Amended by P.L.75-1992, SEC.12.

IC 12-7-2-139

Sec. 139. "Physician services" means the following:

- (1) For purposes of IC 12-15-11, the meaning set forth in IC 12-15-11-1.
- (2) For purposes of IC 12-15-12, services provided by an individual licensed under IC 25-22.5 while engaged in the practice of medicine (as defined in IC 25-22.5-1-1.1(a)).

As added by P.L.2-1992, SEC.1.

IC 12-7-2-139.1

(Repealed by P.L.273-1999, SEC.181.)

IC 12-7-2-140

Sec. 140. "Plan", for purposes of IC 12-17-2, has the meaning set forth in IC 12-17-2-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-141

Sec. 141. "Planning authority", for purposes of IC 12-28-4, has the meaning set forth in IC 12-28-4-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-141.2

Sec. 141.2. "Planning council", for purposes of IC 12-14-26, has the meaning set forth in IC 12-14-26-1.

As added by P.L.109-1997, SEC.1.

IC 12-7-2-142

Sec. 142. "Political subdivision", for purposes of the following statutes, has the meaning set forth in IC 36-1-2-13:

- (1) IC 12-8.
- (2) IC 12-13-4.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-142.5

Sec. 142.5. "Point of sale terminal", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.257-1997(ss), SEC.6.

IC 12-7-2-143

Sec. 143. "Health maintenance organization", for purposes of IC 12-15-39.6, has the meaning set forth in IC 27-13-1-19.

As added by P.L.2-1992, SEC.1. Amended by P.L.26-1994, SEC.3; P.L.24-1997, SEC.15.

IC 12-7-2-143.5

Sec. 143.5. "Preschool", for purposes of IC 12-17.2, means a program that provides an educational experience through an age appropriate written curriculum for children at least thirty (30) months of age who are not eligible to enter kindergarten and that:

- (1) conducts sessions for not more than four (4) hours a day;
- (2) enrolls children for only one (1) session a day;
- (3) does not serve meals on the premises;
- (4) maintains a child to staff ratio of not more than fifteen (15) children to one (1) staff member;
- (5) supervises children at all times with a person who is at least eighteen (18) years of age; and
- (6) does not operate for more than ten (10) consecutive days.

As added by P.L.61-1993, SEC.5; P.L.136-1993, SEC.5. Amended by P.L.1-1994, SEC.51.

IC 12-7-2-144

Sec. 144. "Preschool child care program", for purposes of IC 12-17-13, has the meaning set forth in IC 12-17-13-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-144.7

Sec. 144.7. "Primary business", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.
As added by P.L.257-1997(ss), SEC.7.

IC 12-7-2-144.9

Sec. 144.9. "Private organization", for purposes of IC 12-17-2, has the meaning set forth in IC 12-17-2-3.5.
As added by P.L.213-1999, SEC.1.

IC 12-7-2-145

Sec. 145. "Private psychiatric institution", for purposes of IC 12-15-18, has the meaning set forth in IC 12-15-18-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-146**Program**

Sec. 146. "Program" refers to the following:

- (1) For purposes of IC 12-10-7, the adult guardianship services program established by IC 12-10-7-5.
- (2) For purposes of IC 12-10-10, the meaning set forth in IC 12-10-10-5.
- (3) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-5.

As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.16; P.L.273-1999, SEC.166; P.L.283-2001, SEC.16; P.L.255-2003, SEC.13.

IC 12-7-2-147

Sec. 147. "Property", for purposes of IC 12-12-1, has the meaning set forth in IC 35-41-1-23.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-147.5

Sec. 147.5. "Prospective DUR", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-13.

As added by P.L.75-1992, SEC.13.

IC 12-7-2-148

Sec. 148. "Protective services", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-5.

As added by P.L.2-1992, SEC.1.

.78, effective 1-1-2000.

IC 12-7-2-149**Repealed**

(Repealed by P.L.241-2003, SEC.21.)

IC 12-7-2-149.1**Provider**

Sec. 149.1. "Provider" means the following:

- (1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.
- (2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:

IC 12-14-1 through IC 12-14-9.5.

(B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

(C) IC 12-17-10.

(D) IC 12-17-11.

(E) IC 12-17.6.

(3) For purposes of IC 12-17-9, the meaning set forth in IC 12-17-9-2.

(4) Except as provided in subdivision (5), for purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.

(5) For purposes of IC 12-17.2-3.5, a person that:

(A) provides child care; and

(B) is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.

The term does not include an individual who provides services to a person described in clauses (A) and (B), regardless of whether the individual receives compensation.

(6) For purposes of IC 12-17.4, a person who operates a child caring institution, foster family home, group home, or child placing agency under IC 12-17.4.

As added by P.L.241-2003, SEC.2.

IC 12-7-2-150

Sec. 150. "Psychiatric disorder", for purposes of section 130(2) of this chapter, means a mental disorder or disease. The term does not include the following:

- (1) Mental retardation.
- (2) A developmental disability.
- (3) Alcoholism.
- (4) Addiction to narcotic or dangerous drugs.

As added by P.L.2-1992, SEC.1. Amended by P.L.6-1995, SEC.5; P.L.108-1996, SEC.2.

IC 12-7-2-151

Sec. 151. "Psychiatric hospital", for purposes of section 82 of this chapter, means any of the following:

- (1) A state institution.
- (2) A general hospital:
 - (A) licensed by the state department of health; and
 - (B) that maintains and operates facilities for the observation, care, treatment, and detention of individuals who are mentally ill.
- (3) A private psychiatric hospital licensed by the division of mental health.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-152

(Repealed by P.L.1-1993, SEC.91.)

IC 12-7-2-153

Sec. 153. (a) "Public welfare", for purposes of the statutes listed in subsection (b), means any form of public welfare or social security provided for in the statutes listed in subsection (b). The term does not include direct poor relief as administered by township trustees under IC 12-20.

(b) This section applies to the following statutes:

- (1) IC 12-13.
- (2) IC 12-14.
- (3) IC 12-15.
- (4) IC 12-17-1.
- (5) IC 12-17-2.
- (6) IC 12-17-3.
- (7) IC 12-17-9.
- (8) IC 12-17-10.
- (9) IC 12-17-11.
- (10) IC 12-19.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-154

(Repealed by P.L.20-1992, SEC.47.)

IC 12-7-2-154.8

Sec. 154.8. "Qualified entity", for purposes of IC 12-15-2.2, has the meaning set forth in IC 12-15-2.2-1.

As added by P.L.58-1998, SEC.4.

IC 12-7-2-155

Sec. 155. "Qualified long term care policy", for purposes of IC 12-15-39.6, has the meaning set forth in IC 12-15-39.6-5.

As added by P.L.2-1992, SEC.1. Amended by P.L.24-1997, SEC.17.

IC 12-7-2-156

Sec. 156. "Reason to believe", for purposes of IC 12-10-3, has the meaning set forth in IC 12-10-3-6.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-157

Sec. 157. "Reasonable means of communication", for purposes of IC 12-27-3, has the meaning set forth in IC 12-27-3-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-158

Sec. 158. "Recipient" means the following:

(1) For purposes of the following statutes, a person who has received or is receiving assistance for the person or another person under any of the following statutes:

- (A) IC 12-10-6.
- (B) IC 12-13.
- (C) IC 12-14.
- (D) IC 12-15.
- (E) IC 12-17-1.
- (F) IC 12-17-2.
- (G) IC 12-17-3.
- (H) IC 12-17-9.
- (I) IC 12-17-10.
- (J) IC 12-17-11.
- (K) IC 12-19.

(2) For purposes of IC 12-20-10 and IC 12-20-11:

(A) a single individual receiving poor relief; or

(B) if poor relief is received by a household with at least two (2) individuals, the member of the household most suited to perform available work.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.19.

IC 12-7-2-159

Sec. 159. "Region", for purposes of IC 12-10-7, has the meaning set forth in IC 12-10-7-4.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-160

Sec. 160. (a) "Rehabilitation", for purposes of the statutes listed in subsection (b), means a process of providing services to meet the current and future needs of persons with disabilities so that the individuals may prepare for and engage in gainful employment to the extent of their capabilities, as provided in 29 U.S.C. 720.

(b) This section applies to the following statutes:

- (1) IC 12-8-1-11.
- (2) IC 12-12-1.
- (3) IC 12-12-3.
- (4) IC 12-12-6.

As added by P.L.2-1992, SEC.1. Amended by P.L.138-1993, SEC.2; P.L.23-1993, SEC.40; P.L.49-1997, SEC.42; P.L.272-1999, SEC.20.

IC 12-7-2-161

YAMD.1997

Sec. 161. "Rehabilitation center", for purposes of IC 12-12-3, refers to the rehabilitation center established under IC 12-12-3-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.49-1997, SEC.43.

IC 12-7-2-162

Sec. 162. "Rehabilitation engineering", for purposes of IC 12-12-6, has the meaning set forth in IC 12-12-6-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-162.5

Sec. 162.5. "Related", for purposes of IC 12-17.2 and IC 12-17.4, means any of the following relationships to an individual who is less than eighteen (18) years of age by marriage, blood, or adoption:

- (1) Parent.
- (2) Grandparent.
- (3) Brother.
- (4) Sister.
- (5) Stepparent.
- (6) Stepgrandparent.
- (7) Stepbrother.
- (8) Stepsister.
- (9) First cousin.

(10) Uncle.

(11) Aunt.

As added by P.L.20-1992, SEC.22 and P.L.81-1992, SEC.23. Amended by P.L.1-1993, SEC.92.

IC 12-7-2-163

(Repealed by P.L.139-1993, SEC.24.)

IC 12-7-2-163.5

Sec. 163.5. "Request for proposals", for purposes of IC 12-8-12, has the meaning set forth in IC 12-8-12-3.

As added by P.L.46-1995, SEC.4. Amended by P.L.2-1997, SEC.32.

IC 12-7-2-164

Resident

Sec. 164. "Resident" has the following meaning:

(1) For purposes of IC 12-10-15, the meaning set forth in IC 12-10-15-5.

(2) For purposes of IC 12-16, except IC 12-16-1, an individual who has actually resided in Indiana for at least ninety (90) days.

(3) For purposes of IC 12-20-8, the meaning set forth in IC 12-20-8-1.

(4) For purposes of IC 12-24-5, the meaning set forth in

IC 12-24-5-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.73-1998, SEC.5; P.L.283-2001, SEC.18; P.L.120-2002, SEC.12; P.L.255-2003, SEC.15.

IC 12-7-2-165

Sec. 165. "Residential facility", for purposes of IC 12-28-4 and IC 12-28-5, refers to a residential facility for the developmentally disabled or a residential facility for the mentally ill.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-166

Sec. 166. "Residential facility for the developmentally disabled", for purposes of IC 12-28-4 and IC 12-28-5, means a facility that provides residential services for developmentally disabled individuals in a program described in IC 12-11-1.1-1(e)(1) or IC 12-11-1.1-1(e)(2).

As added by P.L.2-1992, SEC.1. Amended by P.L.23-1992, SEC.2; P.L.272-1999, SEC.21.

IC 12-7-2-167

Sec. 167. "Residential facility for the mentally ill", for purposes of IC 12-28-4 and IC 12-28-5, means a facility that provides residential services for mentally ill individuals in a program described in IC 12-22-2-3.

As added by P.L.2-1992, SEC.1. Amended by P.L.23-1992, SEC.3; P.L.62-1993, SEC.3; P.L.6-1995, SEC.6.

IC 12-7-2-168

Sec. 168. "Respite care" means the following:

(1) For purposes of IC 12-10-4 and IC 12-10-5, temporary care or supervision of an individual with Alzheimer's disease or a related senile dementia that is provided because the individual's family or caretaker is temporarily unable or unavailable to provide needed care.

(2) For purposes of IC 12-22-1, the meaning set forth in IC 12-22-1-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.22.

IC 12-7-2-169

Sec. 169. (a) "Responsible party", for purposes of IC 12-24-6, IC 12-24-13, IC 12-24-14, and IC 12-24-15 means any of the following:

(1) The patient.

(2) The parents of the patient if the patient is not more than eighteen (18) years of age.

(3) The spouse of the patient.

(4) The estate of the patient.

(5) A legal guardian of the patient in the guardian's representative capacity.

(6) A trustee of the patient if the trust authorizes payment for the care, treatment, maintenance, or support of the patient.

(b) The term does not include the children of the patient.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-169.3

Sec. 169.3. "Retailer", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.257-1997(ss), SEC.8.

IC 12-7-2-169.5

Sec. 169.5. "Retrospective DUR", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-14.

As added by P.L.75-1992, SEC.14.

IC 12-7-2-169.9

Sec. 169.9. "School", for purposes of IC 12-14-2-23, has the meaning set forth in IC 12-14-2-23(b).

As added by P.L.46-1995, SEC.5.

IC 12-7-2-170

Sec. 170. "School age child care program", for purposes of IC 12-17-12, has the meaning set forth in IC 12-17-12-5.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-171

Sec. 171. "School corporation", for purposes of IC 12-17-12, has the meaning set forth in IC 12-17-12-6.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-172

Sec. 172. (a) Except as provided in subsection (b), "secretary" refers to the secretary of family and social services appointed under IC 12-8-1-2.

(b) "Secretary", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.2-1997, SEC.33.

IC 12-7-2-173

(Repealed by P.L.81-1992, SEC.40.)

IC 12-7-2-174

Sec. 174. "Secure private facility", for purposes of IC 12-17-4 and IC 12-17.2-2-3, means a secure facility other than the following:

- (1) A juvenile detention facility established under IC 31-31-8 or IC 31-31-9 (or IC 31-6-9-5 or IC 31-6-9.5 before their repeal).
- (2) A facility operated by the department of correction.
- (3) A county jail.
- (4) A detention center operated by a county sheriff.

As added by P.L.2-1992, SEC.1. Amended by P.L.73-1992, SEC.2; P.L.81-1992, SEC.25; P.L.1-1993, SEC.94; P.L.1-1997, SEC.52.

IC 12-7-2-175

Sec. 175. "Service provider", for purposes of IC 12-27, means any of the following:

- (1) A state institution.
- (2) A private psychiatric hospital licensed under IC 12-25.
- (3) A community mental health center.
- (4) A community mental retardation and other developmental disabilities center.
- (5) A service provider certified by the division of mental health to provide substance abuse treatment programs.
- (6) A service provider or program receiving money from or through a division.
- (7) Any other service provider, hospital, clinic, program, agency, or private practitioner if the individual receiving mental health services or developmental training was admitted without the individual's consent.
- (8) A managed care provider (as defined in IC 12-7-2-127(b)).

As added by P.L.2-1992, SEC.1. Amended by P.L.40-1994, SEC.16.

IC 12-7-2-176

Sec. 176. "Services" means the following:

- (1) For purposes of IC 12-10-1 and IC 12-10-2, those services designed to provide assistance to the aged and the aging, including the following:
 - (A) Nutritional programs.
 - (B) Facilities improvement.
 - (C) Transportation services.
 - (D) Senior volunteer programs.
 - (E) Supplementary health services.
 - (F) Programs for leisure time activities.
 - (G) Housing and employment counseling.
 - (H) Informational, referral, and counseling programs to aid the aging and aged in availing themselves of

existing services intended to aid the aged in attaining and maintaining self-sufficiency, personal well-being, and maximum participation in community life.

(1) Other services required under regulations established under the Older Americans Act (42 U.S.C. 3001 et seq.).

(2) For purposes of IC 12-28-1, the meaning set forth in IC 12-28-1-4.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-177

Sec. 177. (a) "Shelter", for purposes of IC 12-20, means a house, a mobile home, an apartment, a group of rooms, or a single room that is occupied or is intended for occupancy as separate living quarters where the occupant or intended occupant:

(1) does not live and eat with any other individual in the building; and

(2) has direct access to the occupant's living quarters from the outside of the building or through a common hall.

(b) Notwithstanding subsection (a), "shelter", for purposes of IC 12-20-17-2, has the meaning set forth in IC 12-20-17-2.

As added by P.L.2-1992, SEC.1. Amended by P.L.51-1996, SEC.9.

IC 12-7-2-178

(Repealed by P.L.81-1992, SEC.40.)

IC 12-7-2-178.1

Sec. 178.1. "Shelter care facility", for purposes of IC 12-17.4-3 and IC 12-17.4-5, means a child caring institution or group home that provides temporary service for not more than sixty (60) consecutive days to a child:

(1) who is admitted to a residential facility on an emergency basis;

(2) for twenty-four (24) hours a day; and

(3) who:

(A) is not the child, stepchild, grandchild, niece, nephew, or sibling of the individual providing care and supervision;

(B) is separated from the child's parent, stepparent, guardian, custodian, or other relative; and

(C) is:

(i) receiving care and supervision under an order of a juvenile court;

(ii) voluntarily placed by the parent or guardian of the child; or

(iii) self-referred.

As added by P.L.61-1993, SEC.7.

IC 12-7-2-178.5

Sec. 178.5. "Single source drug", for purposes of IC 12-15-35-35, has the meaning set forth in IC 12-15-35-35(a).

As added by P.L.76-1994, SEC.1.

IC 12-7-2-178.8

Sec. 178.8. "Smoking", for purposes of IC 12-24-2-8, has the meaning set forth in IC 16-41-37-3.

As added by P.L.110-1997, SEC.1.

IC 12-7-2-179

Sec. 179. "Social Services Block Grant" refers to the block grant under 42 U.S.C. 1397 et seq.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-180

Sec. 180. "Solicitation", for purposes of IC 12-15-25-1, has the meaning set forth in IC 12-15-25-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-180.1

Special needs

Sec. 180.1. "Special needs", for purposes of IC 12-10.5, has the meaning set forth in IC 12-10.5-1-2.

As added by P.L.274-2003, SEC.4.

IC 12-7-2-180.2

Sec. 180.2. "Special needs foster family home", for purposes of IC 12-17.4, means a foster family home:

(1) that provides care for a child who:

(A) has a mental, physical, or emotional disability; and

(B) will require additional supervision or assistance in behavior management, activities of daily living, or

management of medical problems; and
(2) that meets the additional requirements under IC 12-17.4-4-1.7.
As added by P.L.211-1999, SEC.1.

IC 12-7-2-180.3

Sec. 180.3. "Special skilled services", for the purposes of IC 12-15-36, has the meaning set forth in IC 12-15-36-3.

As added by P.L.76-1992, SEC.2.

IC 12-7-2-180.5

Sec. 180.5. "Standards", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-15.

As added by P.L.75-1992, SEC.15.

IC 12-7-2-181

(Repealed by P.L.1-1993, SEC.95.)

IC 12-7-2-182

Sec. 182. "State developmental center", for purposes of IC 12-11-2.1, refers to an institution listed in IC 12-24-1-1.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.23.

IC 12-7-2-183

(Repealed by P.L.49-1997, SEC.86.)

IC 12-7-2-184

Sec. 184. (a) "State institution" means an institution:

- (1) owned or operated by the state;
- (2) for the observation, care, treatment, or detention of an individual; and
- (3) under the administrative control of a division.

(b) The term includes the following:

- (1) Central State Hospital.
- (2) Evansville State Hospital.
- (3) Evansville State Psychiatric Treatment Center for Children.
- (4) Fort Wayne State Developmental Center.
- (5) Larue D. Carter Memorial Hospital.
- (6) Logansport State Hospital.
- (7) Madison State Hospital.
- (8) Muscatatuck State Developmental Center.
- (9) Richmond State Hospital.

As added by P.L.2-1992, SEC.1. Amended by P.L.272-1999, SEC.24.

IC 12-7-2-185

Sec. 185. "State ombudsman", for purposes of IC 12-10-13, has the meaning set forth in IC 12-10-13-6.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-186

Sec. 186. "State plan", for purposes of IC 12-8-6, refers to the state Medicaid plan for the Medicaid program.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-187

YAMD.1992

Sec. 187. "State tax board", for purposes of IC 12-20, refers to the state board of tax commissioners established by IC 6-1.1-30-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-188

Sec. 188. "Superintendent" has the following meaning:

- (1) For purposes of IC 12-24, the term refers to the administrative head of a state institution appointed under IC 12-24-2-2.
- (2) For purposes of IC 12-24-6, IC 12-24-15, and IC 12-24-17, the term includes:
 - (A) an employee; or
 - (B) an individual who holds a license to practice medicine under IC 25-22.5; designated as a deputy or an agent of the individual described in subdivision (1).
- (3) For purposes of IC 12-26, the term means the chief administrative officer of a facility and includes the

chief administrative officer's designee.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-188.3

Sec. 188.3. "Supervised group living facility", for purposes of IC 12-28-4 and IC 12-28-5, refers to a supervised group living facility for the developmentally disabled.

As added by P.L.6-1995, SEC.7. Amended by P.L.111-1997, SEC.1.

IC 12-7-2-188.5

Sec. 188.5. "Supervised group living facility for the developmentally disabled", for purposes of IC 12-28-4 and IC 12-28-5, refers to a supervised group living facility for developmentally disabled individuals in a program described in IC 12-11-1.1-1(e)(1).

As added by P.L.6-1995, SEC.8. Amended by P.L.272-1999, SEC.25.

IC 12-7-2-188.7

Sec. 188.7. "Supervised group living facility for the mentally ill", for purposes of IC 12-21-2-3, refers to a supervised group living facility for the mentally ill in a program described in IC 12-22-2-3(2).

As added by P.L.6-1995, SEC.9. Amended by P.L.111-1997, SEC.2.

IC 12-7-2-189

YAMD.1992

Sec. 189. "Support", for purposes of IC 12-20-25-41 has the meaning set forth in IC 12-20-25-41.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-189.3

Sec. 189.3. "Supportive services", for purposes of IC 12-10-15, has the meaning set forth in IC 12-10-15-6.

As added by P.L.73-1998, SEC.6.

IC 12-7-2-189.5

Sec. 189.5. "SURS", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-16.

As added by P.L.75-1992, SEC.16.

IC 12-7-2-190

Sec. 190. "Task force", for purposes of IC 12-10-5, has the meaning set forth in IC 12-10-5-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-190.5

Sec. 190.5. "Therapeutic appropriateness", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-17.

As added by P.L.75-1992, SEC.17.

IC 12-7-2-190.7

IC 12-7-2-190.7 Sec. 190.7. "Therapeutic duplication", for purposes of IC 12-15-35, has the meaning set forth in IC 12-15-35-18.

As added by P.L.75-1992, SEC.18.

IC 12-7-2-190.8

Sec. 190.8. "Therapeutic foster family home", for purposes of IC 12-17.4, means a foster family home:

- (1) that provides care to a seriously emotionally disturbed or developmentally disabled child;
- (2) in which the child receives treatment in a family home through an integrated array of services supervised and supported by qualified program staff from:
 - (A) the office of the secretary of family and social services;
 - (B) a managed care provider that contracts with the division of mental health; or
 - (C) a licensed child placing agency; and
- (3) that meets the additional requirements under IC 12-17.4-4-1.5.

As added by P.L.211-1999, SEC.2.

IC 12-7-2-190.9

Sec. 190.9. "Title IV-A" refers to Title IV-A of the federal Social Security Act.

As added by P.L.257-1997(ss), SEC.9.

IC 12-7-2-191

Sec. 191. "Title IV-A Agency", for purposes of IC 12-17, refers to the division of family and children.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-192

Sec. 192. "Title IV-D Agency", for purposes of IC 12-17-2, has the meaning set forth in IC 12-17-2-4.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-192.3

Sec. 192.3. "Total number of households containing poor relief recipients", for purposes of IC 12-20-28-3, has the meaning set forth in IC 12-20-28-3(b).

As added by P.L.51-1996, SEC.10.

IC 12-7-2-192.4

Sec. 192.4. "Total number of recipients", for purposes of IC 12-20-28-3, has the meaning set forth in IC 12-20-28-3(c).

As added by P.L.51-1996, SEC.11.

IC 12-7-2-192.5

Sec. 192.5. "Total number of requests for assistance", for purposes of IC 12-20-28-3, has the meaning set forth in IC 12-20-28-3(d).

As added by P.L.51-1996, SEC.12.

IC 12-7-2-193

Sec. 193. "Treatment by the department", for purposes of IC 12-23, means treatment in a treatment program within Indiana that is certified under IC 12-23-1-6.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-194

Sec. 194. "Treatment team", for purposes of IC 12-24-7, has the meaning set forth in IC 12-24-7-2.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-194.5

Sec. 194.5. "Trustees", for purposes of IC 12-15-18, has the meaning set forth in IC 12-15-18-3.5.

As added by P.L.27-1992, SEC.9.

IC 12-7-2-195

Sec. 195. "Tuberculosis", for purposes of IC 12-30-7-27, has the meaning set forth in IC 12-30-7-27.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-196

Sec. 196. "Unit", for purposes of IC 12-12-7, has the meaning set forth in IC 12-12-7-1.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-197

Sec. 197. "Vending facilities", for purposes of IC 12-12-5, means automatic vending machines and snack bars and the auxiliary equipment necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-198

Sec. 198. (a) "Visually impaired", for purposes of the statutes listed in subsection (b), refers to an individual who has a visual acuity between 20/60 and 20/200 in the individual's better eye with the best correction or a corresponding loss in visual field.

(b) This section applies to the following statutes:

(1) IC 12-12-1.

(2) IC 12-12-3.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-199

Sec. 199. "Vocational rehabilitation services", for purposes of IC 12-28-1, has the meaning set forth in IC 12-28-1-5.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-199.2**Volunteer; volunteers**

Sec. 199.2. "Volunteer" or "volunteers", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.7.

As added by P.L.18-2003, SEC.5.

IC 12-7-2-199.3**Repealed**

(Repealed by P.L.18-2003, SEC.34.)

IC 12-7-2-199.5

Sec. 199.5. "Voucher payment", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-

3.5-3.

As added by P.L.247-2001, SEC.2.

IC 12-7-2-200

IC 12-7-2-200 Sec. 200. (a) "Warrant", for purposes of the statutes listed in subsection (b), means an instrument that is:

- (1) the equivalent of a money payment; and
- (2) immediately convertible into cash by the payee for the full face amount of the instrument.

(b) This section applies to the following statutes:

- (1) IC 12-10-6.
- (2) IC 12-13.
- (3) IC 12-14.
- (4) IC 12-15.
- (5) IC 12-17-1.
- (6) IC 12-17-9.
- (7) IC 12-17-10.
- (8) IC 12-17-11.
- (9) IC 12-19.

As added by P.L.2-1992, SEC.1.

IC 12-7-2-200.5

Wasted resources

Sec. 200.5. "Wasted resources", for purposes of IC 12-20, means:

- (1) the amount of money or resources expended by an applicant or an adult member of an applicant's household seeking poor relief during the thirty (30) days before the date of application for poor relief for items or services that are not basic necessities;
- (2) income, resources, or tax supported services lost or reduced as a result of a voluntary act during the sixty (60) days before the date of application for poor relief by an adult member of an applicant's household unless the adult member can establish a good reason for the act; or
- (3) lump sum amounts of money or resources from tax refunds, lawsuits, inheritances, or pension payments of at least four hundred dollars (\$400) that are expended by:
 - (A) an applicant seeking poor relief; or
 - (B) an adult member of the applicant's household;during the one hundred eighty (180) days immediately preceding the date of application for poor relief for items or services that are not basic necessities, if at the time of the expenditure there were amounts due and owing for items or services constituting basic necessities.

As added by P.L.51-1996, SEC.13. Amended by P.L.262-2003, SEC.1.

IC 12-7-2-201

Sec. 201. "Youth service bureau", for purposes of IC 12-14-24, has the meaning set forth in IC 12-14-24-2.

As added by P.L.74-1992, SEC.3.

IC 12-8

ARTICLE 8. ADMINISTERING FAMILY AND SOCIAL SERVICES

IC 12-8-1

Chapter 1. Office of Secretary of Family and Social Services

IC 12-8-1-1

Sec. 1. (a) The office of the secretary of family and social services is established.

(b) The office of the secretary includes the following:

- (1) The secretary.
- (2) Each office.

As added by P.L.2-1992, SEC.2.

IC 12-8-1-2

Sec. 2. The governor shall appoint the secretary of family and social services to coordinate family and social service programs among the divisions.

As added by P.L.2-1992, SEC.2.

IC 12-8-1-3

Sec. 3. (a) The secretary has administrative responsibility for the office of the secretary.

(b) Subject to this article, the secretary may organize an office to perform the duties of the office.

As added by P.L.2-1992, SEC.2.

IC 12-8-1-4

Sec. 4. (a) The secretary, with the approval of the budget agency, may hire personnel necessary to perform the duties of each office.

(b) All employees of the office of the secretary other than employees holding confidential or policy making positions are covered by IC 4-15-2.

As added by P.L.2-1992, SEC.2.

IC 12-8-1-5

Sec. 5. (a) The secretary, through the offices, is responsible for coordinating the provision of technical assistance to each division for the following:

(1) Compiling program budgets for each division.

(2) Fiscal performance of each division.

(3) Management and administrative performance of each division.

(4) Program performance of each division.

(b) The secretary, through the offices, is accountable for the following:

(1) Resolution of administrative, jurisdictional, or policy conflicts among the divisions.

(2) The coordination of the activities of each division with other entities, including the general assembly and other state agencies.

(3) Coordination of communication with the federal government and the governments of other states.

(4) Development and ongoing monitoring of a centralized management information system and a centralized training system for orientation and cross-training.

(5) The overall policy development and management of the state Medicaid plan under IC 12-15.

(6) Liaison activities with other governmental entities and private sector agencies.

As added by P.L.2-1992, SEC.2.

IC 12-8-1-6

Sec. 6. (a) The secretary and the commissioner of the state department of health shall cooperate to coordinate family and social services programs with related programs administered by the state department of health.

(b) The secretary, in cooperation with the commissioner of the state department of health, is accountable for the following:

(1) Resolving administrative, jurisdictional, or policy conflicts between a division and the state department of health.

(2) Formulating overall policy for family, health, and social services in Indiana.

(3) Coordinating activities between the programs of the division of family and children and the maternal and child health programs of the state department of health.

(4) Coordinating activities concerning long term care between the division of disability, aging, and rehabilitative services and the state department of health.

(5) Developing and implementing a statewide family, health, and social services plan that includes a set of goals and priorities.

As added by P.L.2-1992, SEC.2. Amended by P.L.4-1993, SEC.26; P.L.5-1993, SEC.39.

IC 12-8-1-7

Sec. 7. The secretary, through the offices, may do the following:

(1) Employ experts and consultants to carry out the duties of the secretary and the offices.

(2) Utilize, with the consent of the other state agencies, the services and facilities of other state agencies without reimbursement.

(3) Accept in the name of the state, for use in carrying out the purposes of this article, any money or other property received as a gift, by bequest, or otherwise.

(4) Accept voluntary and uncompensated services.

(5) Expend money made available according to policies enforced by the budget agency.

(6) Establish and implement the policies and procedures necessary to implement this article.

(7) Advise the governor concerning rules adopted by a division.

(8) Create advisory bodies to advise the secretary about any matter relating to the implementation of this

article.

(9) Perform other acts necessary to implement this article.

As added by P.L.2-1992, SEC.2.

IC 12-8-1-8

Sec. 8. (a) The secretary shall cooperate with the federal Social Security Administration and with any other agency of the federal government in any reasonable manner that may be necessary to qualify for federal aid for assistance to persons who are entitled to assistance under the provisions of the federal Social Security Act.

(b) The secretary shall do the following:

(1) Make reports in the form and containing the information required by the federal Social Security Administration Board or any other agency of the federal government.

(2) Comply with the requirements that the federal Social Security Administration Board or other agency of the federal government finds necessary to assure the correctness and verification of reports.

(c) The secretary shall act as the agent to the federal government in the following:

(1) Welfare matters of mutual concern.

(2) The administration of federal money granted to Indiana to aid the welfare functions of the state.

As added by P.L.2-1992, SEC.2.

IC 12-8-1-9

Sec. 9. Consistent with the powers and duties of the secretary under this article, the secretary may adopt rules under IC 4-22-2 relating to the exercise of those powers and duties. However, any rules adopted by the secretary under IC 4-22-2-29 must be approved by the family and social services committee established by IC 12-8-3-2 before submission to the attorney general under IC 4-22-2-31. However, nothing in this section prevents the secretary from presenting a proposed rule to the family and social services committee established by IC 12-8-3-2 for the committee's review and recommendations before the adoption of the rule under IC 4-22-2-29 and approval of the rule by the committee under this section.

As added by P.L.2-1992, SEC.2. Amended by P.L.42-1995, SEC.7.

IC 12-8-1-10

Expiration

Sec. 10. This chapter expires January 1, 2006.

As added by P.L.2-1992, SEC.2. Amended by P.L.153-1995, SEC.1; P.L.108-1997, SEC.2; P.L.7-2000, SEC.1; P.L.291-2001, SEC.212; P.L.83-2002, SEC.1; P.L.243-2003, SEC.3.

IC 12-8-1-11

Sec. 11. The office of the secretary is designated as the sole state agency responsible for administering programs concerning the vocational rehabilitation of handicapped persons under 29 U.S.C. 701 et seq.

As added by P.L.138-1993, SEC.3.

IC 12-8-1-12

Sec. 12. (a) If:

(1) the sums appropriated by the general assembly in the biennial budget to the family and social services administration for the Medicaid assistance, Medicaid administration, public assistance (AFDC), and the IMPACT (JOBS) work program are insufficient to enable the office of the secretary to meet its obligations; and

(2) the failure to appropriate additional funds would:

(A) violate a provision of federal law; or

(B) jeopardize the state's share of federal financial participation applicable to the state appropriations contained in the biennial budget for Medicaid assistance, Medicaid administration, public assistance (AFDC), or the IMPACT (JOBS) program;

then there are appropriated further sums as may be necessary to remedy a situation described in this subsection, subject to the approval of the budget director and the unanimous recommendation of the members of the budget committee. However, before approving a further appropriation under this subsection, the budget director shall explain to the budget committee the factors indicating that a condition described in subdivision (2) would be met.

(b) If:

(1) the sums appropriated by the general assembly in the biennial budget to the family and social services administration for Medicaid assistance, Medicaid administration, public assistance (AFDC), and the

IMPACT (JOBS) work program are insufficient to enable the family and social services administration to meet its obligations; and

(2) neither of the conditions in subsection (a)(2) would result from a failure to appropriate additional funds; then there are appropriated further sums as may be necessary to remedy a situation described in this subsection, subject to the approval of the budget director and the unanimous recommendation of the members of the budget committee. However, before approving a further appropriation under this subsection, the budget director shall explain to the budget committee the factors indicating that a condition described in subdivision (2) would be met.

(c) Notwithstanding IC 12-14 and IC 12-15 (except for a clinical advisory panel established under IC 12-15), and except as provided in subsection (d), the office of the secretary may by rule adjust programs, eligibility standards, and benefit levels to limit expenditures from Medicaid assistance, Medicaid administration, public assistance (AFDC), and the IMPACT (JOBS) work program to levels appropriated by the general assembly in the biennial budget. However, if there are additional appropriations under subsections (a) or (b), the office of the secretary may by rule adjust programs, eligibility standards, and benefit levels to limit expenditures from Medicaid assistance, Medicaid administration, public assistance (AFDC), and the IMPACT (JOBS) program to levels that are further appropriated under subsections (a) or (b). The office of the secretary may adopt emergency rules under IC 4-22-2-37.1 to make an adjustment authorized by this subsection. However, adjustments under this subsection may not:

(1) violate a provision of federal law; or

(2) jeopardize the state's share of federal financial participation applicable to the state appropriations contained in the biennial budget for Medicaid assistance, Medicaid administration, public assistance (AFDC), and the IMPACT (JOBS) work program.

(d) Subject to IC 12-15-21-3, any adjustments made under subsection (c) must:

(1) allow for a licensed provider under IC 12-15 to deliver services within the scope of the provider's license if the benefit is covered under IC 12-15; and

(2) provide access to services under IC 12-15 from a provider under IC 12-15-12.

As added by P.L.46-1995, SEC.6.

IC 12-8-1-13

Sec. 13. (a) Subject to the appropriation limits established by the state's biennial budget for the office of the secretary and its divisions, and after assistance, including assistance under AFDC (IC 12-14), medical assistance (IC 12-15), and food stamps (7 U.S.C. 2016(i)), is distributed to persons eligible to receive assistance, the secretary may adopt rules under IC 4-22-2 to offer programs on a pilot or statewide basis to encourage recipients of assistance under IC 12-14 to become self-sufficient and discontinue dependence on public assistance programs. Programs offered under this subsection may do the following:

(1) Develop welfare-to-work programs.

(2) Develop home child care training programs that will enable recipients to work by providing child care for other recipients.

(3) Provide case management and supportive services.

(4) Develop a system to provide for public service opportunities for recipients.

(5) Provide plans to implement the personal responsibility agreement under IC 12-14-2-21.

(6) Develop programs to implement the school attendance requirement under IC 12-14-2-17.

(7) Provide funds for county planning council activities under IC 12-14-22-13.

(8) Provide that a recipient may earn up to the federal income poverty level (as defined in IC 12-15-2-1) before assistance under this title is reduced or eliminated.

(9) Provide for child care assistance, with the recipient paying fifty percent (50%) of the local market rate as established under 45 CFR 256 for child care.

(10) Provide for medical care assistance under IC 12-15, if the recipient's employer does not offer the recipient health care coverage.

(b) If the secretary offers a program described in subsection (a), the secretary shall annually report the results and other relevant data regarding the program to the legislative council.

As added by P.L.46-1995, SEC.7.

IC 12-8-1-15

Sec. 15. The office of the secretary shall improve its system through the use of technology and training of staff to do the following:

(1) Simplify, streamline, and destigmatize the eligibility and enrollment processes in all health programs serving children.

- (2) Ensure an efficient provider payment system.
 - (3) Improve service to families.
 - (4) Improve data quality for program assessment and evaluation.
- As added by P.L.273-1999, SEC.169.*

IC 12-8-2

Chapter 2. Family and Social Services Bodies

IC 12-8-2-1

Sec. 1. As used in this chapter, "body" refers to an entity described in section 3 of this chapter.

As added by P.L.2-1992, SEC.2.

IC 12-8-2-2

Sec. 2. As used in this chapter, "member" refers to a member of a body.

As added by P.L.2-1992, SEC.2.

IC 12-8-2-3

Sec. 3. Unless otherwise provided by a statute, this chapter applies to the following:

- (1) The family and social services committee established by IC 12-8-3-2.
- (2) The following advisory councils:
 - (A) The division of disability, aging, and rehabilitative services advisory council.
 - (B) The division of family and children advisory council.
 - (C) The division of mental health advisory council.
- (3) A body:
 - (A) established by statute for a division; and
 - (B) whose enabling statute makes this chapter applicable to the body.

As added by P.L.2-1992, SEC.2. Amended by P.L.4-1993, SEC.27; P.L.5-1993, SEC.40; P.L.42-1995, SEC.8.

IC 12-8-2-3.5

Sec. 3.5. Up to five (5) individuals appointed by the secretary to serve on an entity not described in section 3(2) of this chapter may be appointed to serve concurrently on an advisory council described in section 3(2) of this chapter. However, an individual may not serve concurrently on more than one (1) advisory council described in section 3(2) of this chapter.

As added by P.L.109-1996, SEC.1.

IC 12-8-2-4

- Sec. 4. (a) This section applies only to a member who by statute is appointed to a fixed term.
- (b) The term of an individual serving as a member begins on the latter of the following:
- (1) The day the term of the member whom the individual is appointed to succeed expires. If the individual does not succeed a member, the member's term begins as provided in subdivision (2).
 - (2) The day the individual is appointed.
 - (c) The term of a member expires on July 1 of the second year after the expiration of the term of the member's immediate predecessor. If the member has no immediate predecessor, the term of the member expires on July 1 of the second year after the member's term began.
 - (d) A member may be reappointed for a new term. A reappointed member is the member's own:
 - (1) successor for purposes of subsection (b); and
 - (2) immediate predecessor for purposes of subsection (c).

As added by P.L.2-1992, SEC.2.

IC 12-8-2-5

- Sec. 5. (a) This section applies only to an individual who serves as a member because of an office the individual holds.
- (b) The individual serves as a member until the individual no longer holds the office.

As added by P.L.2-1992, SEC.2.

IC 12-8-2-6

Sec. 6. The appointing authority of a member shall appoint an individual to fill a vacancy in the office of the member.

As added by P.L.2-1992, SEC.2.

IC 12-8-2-7

Sec. 7. Except as provided in another statute, the governor shall appoint a voting member of the body to be the presiding officer of the body.

As added by P.L.2-1992, SEC.2.

IC 12-8-2-8

Sec. 8. Unless otherwise provided by a statute, a member is a voting member.

As added by P.L.2-1992, SEC.2.

IC 12-8-2-9

Sec. 9. A majority of the voting members of the body constitutes a quorum.

As added by P.L.2-1992, SEC.2.

IC 12-8-2-10

Sec. 10. The affirmative vote of a majority of the voting members of the body is required for the body to take any action.

As added by P.L.2-1992, SEC.2.

IC 12-8-2-11

Sec. 11. (a) A member who is not a state employee is entitled to both of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) A member who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) A member who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

As added by P.L.2-1992, SEC.2.

IC 12-8-2-11.5

Sec. 11.5. In addition to the requirements of IC 5-14-1.5, the office of the secretary or a division will make a good faith effort to ensure that members of any body subject to this chapter receive a copy of an agenda at least forty-eight (48) hours before any meeting of the body.

As added by P.L.42-1995, SEC.9.

IC 12-8-2-12**Expiration**

Sec. 12. This chapter expires January 1, 2006.

As added by P.L.2-1992, SEC.2. Amended by P.L.153-1995, SEC.2; P.L.108-1997, SEC.3; P.L.7-2000, SEC.3; P.L.291-2001, SEC.213; P.L.83-2002, SEC.2; P.L.243-2003, SEC.4.

IC 12-8-3**Chapter 3. Family and Social Services Advisory Commission****IC 12-8-3-1**

Sec. 1. As used in this chapter, "committee" refers to the family and social services committee established by section 2 of this chapter.

As added by P.L.2-1992, SEC.2. Amended by P.L.42-1995, SEC.10.

IC 12-8-3-2

Sec. 2. The family and social services committee is established.

As added by P.L.2-1992, SEC.2. Amended by P.L.42-1995, SEC.11.

IC 12-8-3-2.5

Sec. 2.5. This chapter does not apply to a rule that is approved or adopted by any committee, board, or commission authorized by statute to approve or adopt rules.

As added by P.L.42-1995, SEC.12.

IC 12-8-3-3

Sec. 3. (a) The committee consists of fifteen (15) voting members appointed by the governor. The voting members shall be the governing body of the committee for the purposes of IC 5-14-1.5. The voting

members may not be employees of the executive branch or legislative branch of the state. Not more than five (5) of the members may be health care providers (as defined in IC 16-18-2-163). The members must include the following:

(1) Eight (8) individuals who have expertise in one (1) or more programs administered by the office of the secretary of family and social services.

(2) One (1) physician licensed under IC 25-22.5.

(3) One (1):

(A) member of the board of directors;

(B) administrator; or

(C) officer;

of a hospital licensed under IC 16-21 that is a disproportionate share provider under IC 12-15-16-1(a) or IC 12-15-16-1(b).

(4) One (1) individual who serves as a provider on the Medicaid advisory committee (IC 12-15-33-2) who shall represent the interests of health care providers having representation on the Medicaid advisory committee. However, the member appointed under this subdivision may not be a licensed physician under IC 25-22.5 or a representative of a hospital licensed under IC 16-21.

(5) Four (4) individuals who:

(A) are consumers of services; or

(B) advocate on behalf of consumers of services;

administered by the office of the secretary of family and social services and representing each of the divisions of family and social services and the office of Medicaid policy and planning.

(b) The following individuals shall provide advice and counsel to the committee and serve as ex officio nonvoting members:

(1) The director of the budget agency.

(2) The superintendent of public instruction.

(3) The commissioner of the department of correction.

(4) The state health commissioner or the commissioner's designee.

(5) A medical economist who is knowledgeable about cost shifting by health care providers who provide health care services to Medicaid patients and the impact of cost shifting on the cost of health insurance coverage.

(6) An individual who is knowledgeable about property tax rates and the impact of state public assistance programs on property tax rates.

(7) The secretary of family and social services or the secretary's designee.

(c) The governor shall select a chairperson at the first committee meeting and any time immediately before the expiration of the chairperson's term. The committee shall meet at least monthly and at the call of the chairperson.

(d) In addition to the requirements of IC 5-14-1.5, the office of the secretary or a division will make a good faith effort to ensure that members of the committee receive a copy of the agenda at least forty-eight (48) hours before any meeting.

As added by P.L.2-1992, SEC.2. Amended by P.L.4-1993, SEC.28; P.L.5-1993, SEC.41; P.L.42-1995, SEC.13.

IC 12-8-3-4

Sec. 4. (a) Notwithstanding IC 12-8-2-4, each voting member of the committee shall be appointed for a term of three (3) years. A member may be reappointed for additional terms.

(b) Each nonvoting member of the committee shall serve a term as follows:

(1) If the member is not an employee of the executive branch of the state, three (3) years.

(2) If the member is an employee of the executive branch of the state:

(A) three (3) years; or

(B) until the member is no longer an employee of the executive branch of the state; whichever occurs first.

(c) Each member shall serve until a successor is appointed.

(d) The chairperson of the committee must be a voting member of the committee. The term of the chairperson is three (3) years.

As added by P.L.2-1992, SEC.2. Amended by P.L.42-1995, SEC.14.

IC 12-8-3-4.1

Sec. 4.1. (a) As used in this section, "financial interest" means an interest:

(1) in a purchase, sale, lease, contract, option, or other transaction between:

(A) the office of the secretary;

(B) the divisions; or

(C) the office;

and any person; or

(2) involving property or services;

in which a committee member or a committee member's spouse or unemancipated children may gain a benefit of at least two hundred fifty dollars (\$250). The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include the interest of a committee member in the common stock of a corporation unless the combined holdings of the member, the member's spouse, and the member's unemancipated children in the corporation total more than one percent (1%) of the outstanding shares of the common stock of the corporation. The term does not include an interest that is not greater than the interest of the general public.

(b) A committee member may not vote on a rule if the member has a financial interest in the outcome of the vote.

(c) A committee member who may not vote on a rule under subsection (b) may still participate in any discussions regarding the rule.

As added by P.L.42-1995, SEC.15.

IC 12-8-3-4.2

Sec. 4.2. (a) If the secretary and the chairperson of the committee jointly determine that delay in the adoption of a rule under IC 4-22-2-29 will:

(1) have an immediate and direct impact on the health, welfare, or safety of persons;

(2) result in a violation of federal or state law;

(3) have a substantial fiscal impact upon the state that is greater than or equal to two million dollars (\$2,000,000) annually; or

(4) result in the forfeiture of federal waivers obtained by the secretary or any division;

adoption of the rule may proceed in accordance with subsections (b) through (e).

(b) If the secretary and the chairperson of the committee make a determination under subsection (a), the proposed rule must be provided to committee members for the committee's review and recommendations within five (5) days after:

(1) the rule is published in the Indiana Register; or

(2) the determination is made under subsection (a);

whichever occurs first.

(c) The committee may meet to consider the proposed rule within sixty (60) days after the date of publication of the rule in the Indiana Register and may reject or approve the rule.

(d) If the committee approves the proposed rule as described in subsection (c) and the rule, when adopted under IC 4-22-2-29, is identical to the proposed rule, except for technical changes, the rule need not be resubmitted to the committee for approval under this chapter.

(e) If the committee rejects or fails to approve the proposed rule as described in subsection (c) or the rule adopted under IC 4-22-2-29 is

not identical to the proposed rule, except for technical changes, the rule must be resubmitted to the committee for approval or rejection before submission to the attorney general under IC 4-22-2-31. The committee shall reject or approve the rule within sixty (60) days after the date of resubmission of the rule to the committee under this subsection.

As added by P.L.42-1995, SEC.16.

IC 12-8-3-4.3

Sec. 4.3. (a) A rule that has been adopted by the secretary or any division under IC 4-22-2-29 and submitted to the committee for approval must be acted upon by the committee in accordance with subsection (b) or (c) within two hundred sixty-five (265) days after the date the rule was published as a proposed rule in the Indiana Register.

(b) At any meeting of the committee, the committee may vote to place a rule upon a consent calendar. At least two-thirds (2/3) vote of the members present at a meeting is required to place a rule upon a consent calendar. Rules placed upon a consent calendar are deemed to be approved by the committee.

(c) If the committee does not vote to place a rule on a consent calendar, the committee may:

(1) approve the rule;

(2) reject the rule; or

(3) return the rule to the secretary or a director without disapproving the rule.

(d) If the committee returns a rule under subsection (c)(3), the secretary or a director may revise the rule and resubmit the rule to the committee for consideration under this chapter. Subject to the requirements of IC 4-22, a rule revised under this subsection need not be republished in the Indiana Register.

As added by P.L.42-1995, SEC.17.

IC 12-8-3-4.4

Sec. 4.4. (a) When a proposed rule is adopted under IC 4-22-2-29 by the office of the secretary or by a division, the entity shall publish a notice that the rule has been adopted as a final rule in the next available issue of the Indiana Register.

(b) Copies of a rule adopted under IC 4-22-2-29 must be available at the following locations:

(1) The office of the secretary or the office of the director of the division that adopts the rule.

(2) The office of the general counsel of the family and social services agency.

(3) The legislative information center.

As added by P.L.42-1995, SEC.18.

IC 12-8-3-5

Sec. 5. The committee may advise the secretary on the following matters:

(1) Policy.

(2) Comprehensive planning.

(3) Coordination of:

(A) family and social services programs; and

(B) family and social services programs with related programs administered by the state department of health.

As added by P.L.2-1992, SEC.2. Amended by P.L.42-1995, SEC.19.

IC 12-8-3-6

(Repealed by P.L.42-1995, SEC.26.)

IC 12-8-3-7

Committee members participating in meeting through means of communication; contents of memoranda

Sec. 7. (a) This section applies to a meeting of the committee at which at least five (5) voting members of the committee are physically present at the place where the meeting is conducted.

(b) A member of the committee may participate in a meeting of the committee by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted; to communicate simultaneously with each other during the meeting.

(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of communication described in subsection (b); and

(3) was absent.

(e) A meeting conducted under this section does not violate IC 5-14-1.5.

As added by P.L.243-2003, SEC.5.

IC 12-8-4 Repealed

(Repealed by P.L.253-1997(ss), SEC.44.)

IC 12-8-5 Repealed

(Repealed by P.L.253-1997(ss), SEC.44.)

IC 12-8-6

Chapter 6. Office of Medicaid Policy and Planning

IC 12-8-6-1

Sec. 1. The office of Medicaid policy and planning is established.

As added by P.L.2-1992, SEC.2.

IC 12-8-6-2

Sec. 2. The secretary shall appoint an administrator responsible for management of the office.

As added by P.L.2-1992, SEC.2.

IC 12-8-6-3

Sec. 3. The office is designated as the single state agency for administration of the state Medicaid program under IC 12-15.

As added by P.L.2-1992, SEC.2.

IC 12-8-6-4

Sec. 4. The office shall develop and coordinate Medicaid policy for the state.

As added by P.L.2-1992, SEC.2.

IC 12-8-6-5

Sec. 5. The secretary may adopt rules under IC 4-22-2 to implement this chapter and the state Medicaid program.

As added by P.L.2-1992, SEC.2.

IC 12-8-6-6

Sec. 6. (a) For purposes of IC 4-21.5, the secretary is the ultimate authority for the state Medicaid program.

(b) The secretary shall adopt rules under IC 4-22-2 to specify any additional necessary procedures for administrative review of an agency action under IC 4-21.5 and the state Medicaid program.

As added by P.L.2-1992, SEC.2.

IC 12-8-6-7

Sec. 7. The office and the division of mental health shall develop a written memorandum of understanding that provides the following:

- (1) Program responsibilities for the provision of care and treatment for mentally ill individuals.
- (2) Responsibilities to educate and inform vendors of the proper billing procedures.
- (3) Responsibilities in administering the state plan.
- (4) Responsibilities for Medicaid fiscal and quality accountability and audits for mental health services.
- (5) That the division shall recommend options and services to be reimbursed under the state plan.
- (6) That the office and the division agree that, within the limits of 42 U.S.C. 1396 et seq., mentally ill individuals cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.
- (7) That the office shall seek review and comment from the division before the adoption of rules or standards that may affect the service, programs, or providers of medical assistance services for the mentally ill.
- (8) That the division shall develop rate setting policies for medical assistance services for the mentally ill.
- (9) Policies to facilitate communication between the office and the division.
- (10) Any additional provisions that enhance communication between the office and the division or facilitate more efficient or effective delivery of mental health services.

As added by P.L.2-1992, SEC.2.

IC 12-8-6-8

Sec. 8. The office and the division of disability, aging, and rehabilitative services shall develop a written memorandum of understanding that provides the following:

- (1) Program responsibilities for the provision of care and treatment for developmentally disabled and long term care recipients.
- (2) Responsibilities to educate and inform vendors of the proper billing procedures.
- (3) Responsibilities in administering the state plan.
- (4) Responsibilities for Medicaid fiscal and quality accountability and audits for developmentally disabled and long term care services.
- (5) That the division shall recommend options and services to be reimbursed under the state plan.
- (6) That the office and the division agree that, within the limits of 42 U.S.C. 1396 et seq., developmentally disabled individuals and long term care recipients cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.
- (7) That the office shall seek review and comment from the division before the adoption of rules or standards that may affect the service, programs, or providers of medical assistance services for the developmentally disabled and long term care recipients.
- (8) That the division shall develop rate setting policies for medical assistance services for the

developmentally disabled and long term care recipients.

(9) That the office, with the assistance of the division, shall apply for waivers from the United States Department of Health and Human Services to fund community and home based long term care services as alternatives to institutionalization.

(10) Policies to facilitate communication between the office and the division.

(11) Any additional provisions that enhance communication between the office and the division or facilitate more efficient or effective delivery of developmentally disabled or long term care services.

As added by P.L.2-1992, SEC.2. Amended by P.L.4-1993, SEC.29; P.L.5-1993, SEC.42; P.L.112-1997, SEC.1.

IC 12-8-6-9

Sec. 9. The office and the division of family and children shall develop a written memorandum of understanding that provides the following:

(1) Program responsibilities for the provision of care and treatment for recipients served by the division.

(2) Responsibilities to educate and inform vendors of the proper billing procedures.

(3) Responsibilities in administering the state plan.

(4) Responsibilities for Medicaid fiscal and quality accountability and audits for services administered by the division.

(5) That the division shall recommend options and services to be reimbursed under the Medicaid state plan.

(6) That the office and the division agree that, within the limits of 42 U.S.C. 1396 et seq., recipients served by the division cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.

(7) That the office shall seek review and comment from the division before the adoption of rules or standards that may affect the service, programs, or providers of medical assistance services for recipients served by the division.

(8) That the division shall develop rate setting policies for medical assistance services administered by the division.

(9) Policies to facilitate communication between the office and the division.

(10) Any additional provisions that enhance communication between the office and the division or facilitate more efficient or effective delivery of services.

As added by P.L.2-1992, SEC.2.

IC 12-8-6-10

Expiration

Sec. 10. This chapter expires January 1, 2006.

As added by P.L.2-1992, SEC.2. Amended by P.L.153-1995, SEC.6; P.L.108-1997, SEC.4; P.L.7-2000, SEC.4; P.L.291-2001, SEC.214; P.L.83-2002, SEC.3; P.L.243-2003, SEC.6.

IC 12-8-7 Repealed

(Repealed by P.L.253-1997(ss), SEC.44.)

IC 12-8-8

Chapter 8. Divisions and Directors

IC 12-8-8-1

Sec. 1. Subject to the approval of the governor, the secretary:

(1) shall appoint each director; and

(2) may terminate the employment of a director.

As added by P.L.2-1992, SEC.2.

IC 12-8-8-2

Sec. 2. (a) A director is the chief administrator of the director's division.

(b) A director is responsible to the secretary for the operation and performance of the director's division.

As added by P.L.2-1992, SEC.2.

IC 12-8-8-3

Sec. 3. A director is the appointing authority for the director's division.

As added by P.L.2-1992, SEC.2.

IC 12-8-8-4

Sec. 4. (a) Except as provided in subsection (c), a director may adopt rules under IC 4-22-2 relating to the operation of the director's division and to implement the programs of the director's division.

(b) Except as provided in subsection (c), whenever a division is required to adopt rules under IC 4-22-2, the director of the division is the statutory authority that adopts the rules.

(c) Rules adopted by a director must be approved by the family and social services committee established by IC 12-8-3-2 before submission to the attorney general under IC 4-22-2-31. However, nothing in this section prevents a director from presenting a proposed rule to the family and social services committee established by IC 12-8-3-2 for the committee's review and recommendations before the adoption of the rule under IC 4-22-2-29 and approval of the rule by the committee under IC 12-8-1.

As added by P.L.2-1992, SEC.2. Amended by P.L.42-1995, SEC.20.

IC 12-8-8-5

Sec. 5. (a) A director is the ultimate authority under IC 4-21.5 for purposes of the operation of the director's division and the programs of the director's division.

(b) The director shall consult with the secretary on issues of family, social services, or health policy arising in a proceeding under IC 4-21.5.

As added by P.L.2-1992, SEC.2.

IC 12-8-8-6

Sec. 6. A director is responsible for development and presentation of the budget of the director's division.

As added by P.L.2-1992, SEC.2.

IC 12-8-8-7

(Repealed by P.L.40-1994, SEC.83.)

IC 12-8-8-8**Expiration**

Sec. 8. This chapter expires January 1, 2006.

As added by P.L.2-1992, SEC.2. Amended by P.L.153-1995, SEC.8; P.L.108-1997, SEC.5; P.L.7-2000, SEC.5; P.L.291-2001, SEC.215; P.L.83-2002, SEC.4; P.L.243-2003, SEC.7.

IC 12-8-9 Repealed

(Repealed by P.L.11-1993, SEC.9.)

IC 12-8-10**Chapter 10. Financial Services Group****IC 12-8-10-1**

Sec. 1. This chapter applies only to the indicated money of the following state agencies to the extent that the money is used by the agency to obtain services from grantee agencies to carry out the program functions of the agency:

(1) Money appropriated or allocated to a state agency from money received by the state under the Social Services Block Grant Act (42 U.S.C. 1397 et seq.).

(2) The division of disability, aging, and rehabilitative services, except this chapter does not apply to money expended under the following:

(A) The following statutes, unless application of this chapter is required by another subdivision of this section:

(i) IC 12-10-6.

(ii) IC 12-10-12.

(B) Epilepsy services.

(3) The division of family and children, for money expended under the following:

(A) The following statutes:

(i) IC 12-14-10.

(ii) IC 12-14-11.

(iii) IC 12-14-12.

(B) The following programs:

(i) The child development associate scholarship program.

(ii) The dependent care program.

(iii) Migrant day care.

(iv) The youth services bureau.

- (v) The project safe program.
- (vi) The commodities program.
- (vii) The migrant nutrition program.
- (viii) Any emergency shelter program.
- (ix) The energy weatherization program.
- (x) Programs for individuals with developmental disabilities.
- (4) The state department of health, for money expended under the following statutes:
 - (A) IC 16-19-10.
 - (B) IC 16-38-3.
- (5) The group.
- (6) All state agencies, for any other money expended for the purchase of services if all the following apply:
 - (A) The purchases are made under a contract between the state agency and the office of the secretary.
 - (B) The contract includes a requirement that the office of the secretary perform the duties and exercise the powers described in this chapter.
 - (C) The contract is approved by the budget agency.
- (7) The division of mental health.

As added by P.L.2-1992, SEC.2. Amended by P.L.2-1993, SEC.76; P.L.4-1993, SEC.30; P.L.5-1993, SEC.43; P.L.40-1994, SEC.17; P.L.24-1997, SEC.18; P.L.108-1997, SEC.6.

IC 12-8-10-2

Sec. 2. As used in this chapter, "grantee agency" means a person that receives money directly from a state agency in return for the performance of services.

As added by P.L.2-1992, SEC.2.

IC 12-8-10-3

Sec. 3. As used in this chapter, "group" refers to the financial services group established by sections of this chapter.

As added by P.L.2-1992, SEC.2.

IC 12-8-10-4

Sec. 4. As used in this chapter, "purchase of service format" means a contract format that has the following features:

- (1) Each type of service to be provided under the contract is broken down into measurable units.
- (2) A rate of reimbursement for each unit of service to be provided under the contract is established.
- (3) The units of service actually provided under the contract are reported by the service provider on a regular basis.
- (4) The cost of providing a unit of service under the contract is paid after the unit has been provided.

As added by P.L.2-1992, SEC.2.

IC 12-8-10-5

Sec. 5. The financial services group is established within the office of the secretary.

As added by P.L.2-1992, SEC.2. Amended by P.L.108-1997, SEC.7.

IC 12-8-10-6

Sec. 6. (a) Subject to approval by the budget agency, the agencies subject to this chapter have the exclusive authority to select the grantee agencies to be compensated from the funding sources listed in section 1 of this chapter.

(b) Whenever the group becomes aware that a grantee agency exists that is capable of performing a service for an agency subject to this chapter, the group shall inform the agency of the potential grantee agency.

As added by P.L.2-1992, SEC.2.

IC 12-8-10-7

Sec. 7. (a) When a state agency selects a grantee agency under section 6 of this chapter, the state agency shall determine whether the purchase of service format can be used as the procedure for reimbursing the grantee agency. The state agency has exclusive authority to make this determination, but the state agency shall seek to use the purchase of service format whenever possible.

(b) If a state agency determines that the purchase of service format can be used with a particular grantee agency, the state agency shall notify the group of the state agency's decision. The group shall then follow the procedure described in section 8 of this chapter.

(c) If a state agency determines that the purchase of service format cannot be used with a particular grantee agency, the state agency shall select the contract format that is to be used. If a state agency selects a

contract format under this subsection, the state agency shall notify the group of the state agency's decision. The group shall then follow the procedure described in section 8 of this chapter.

(d) Notwithstanding IC 4-13-2-20, IC 20-1-1.8-17.2, or any other law, a contract format selected under subsection (b) or (c) may include provisions for advance funding as follows:

(1) For not more than one-sixth (1/6) of the contract amount if the annual contract amount is at least fifty thousand dollars (\$50,000).

(2) For not more than one-half (1/2) of the contract amount if the annual contract amount is less than fifty thousand dollars (\$50,000).

(3) For interim payments, with subsequent reconciliation of the amounts paid under the contract and the cost of the services actually provided.

As added by P.L.2-1992, SEC.2. Amended by P.L.20-1992, SEC.25; P.L.21-1992, SEC.7; P.L.1-1993, SEC.96.

IC 12-8-10-8

Sec. 8. (a) When a state agency notifies the group of the selection of a grantee agency and a contract format, the group shall do the following:

(1) Prepare a contract with the grantee agency.

(2) Present the contract to the affected state agency for execution.

(b) A contract prepared by the group under subsection (a) is subject to approval under IC 4-13-2-14.3.

As added by P.L.2-1992, SEC.2.

IC 12-8-10-9

Sec. 9. (a) Each grantee agency receiving money under a contract covered by this chapter shall maintain sufficient records to show the following:

(1) The actual cost of services provided under the contract.

(2) The nature and amount of services provided under the contract.

(b) At least every two (2) years the group shall, in the manner prescribed by the state board of accounts, conduct audits of all grantee agencies that, under a contract under this chapter, receive payment from any of the money described in section 1(2) or 1(3)(B)(x) of this chapter. These audits must include an investigation of the records of the grantee agencies to determine whether the services rendered under the contracts have been in compliance with the terms of the contracts.

(c) This section does not prohibit the state board of accounts from auditing grantee agencies under the board's own authority. The office of the secretary may do either of the following:

(1) Contract with the state board of accounts to conduct audits of grantee agencies.

(2) Require grantee agencies to obtain independent audits of their agencies.

(d) A contract between a state agency and the office of the secretary under section 1(1)(6) of this chapter may include a provision requiring the group to perform or arrange for the audits described by this section.

As added by P.L.2-1992, SEC.2. Amended by P.L.108-1997, SEC.8.

IC 12-8-10-10

Sec. 10. Within thirty (30) days after the completion of each audit required by this chapter, the group shall submit a copy of the audit to each of the following:

(1) The state board of accounts.

(2) Each state agency that is a party to a contract covered in the audit.

(3) The legislative council, upon request of the legislative council or when required by federal law.

(4) The appropriate federal agency, when required by federal law.

As added by P.L.2-1992, SEC.2.

IC 12-8-11 Repealed

(Repealed by P.L.2-1997, SEC.90.)

IC 12-8-12

Chapter 12. Employment Opportunities for AFDC Recipients

IC 12-8-12-1

Sec. 1. The purpose of this chapter is to find available employment opportunities for AFDC recipients that will allow the recipients to gain successful experience in an environment that includes daily work.

As added by P.L.2-1997, SEC.34.

IC 12-8-12-2

Sec. 2. This chapter applies to all AFDC recipients, except recipients exempted under rules adopted by the director under IC 4-22-2.

As added by P.L.2-1997, SEC.34.

IC 12-8-12-3

Sec. 3. As used in this chapter, "request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

As added by P.L.2-1997, SEC.34.

IC 12-8-12-4

Sec. 4. The director may develop programs in partnership with private employers by issuing requests for proposals to stimulate public-private partnerships to provide employment opportunities to AFDC recipients.

As added by P.L.2-1997, SEC.34.

IC 12-8-12-5

Sec. 5. The director may solicit proposals to employ AFDC recipients through a request for proposals, that must include a statement that an employer desiring to participate in the program under section 4 of this chapter shall do the following:

- (1) Provide health care assistance to an AFDC recipient hired by the employer under the same standards that apply to other employees. Under this subdivision, the state shall pay only for the recipient's share of the premium associated with the health care assistance. However, the payment of this premium:
 - (A) may not exceed the cost that would be paid by the state on behalf of the recipient for Medicaid; and
 - (B) is subject to the requirements of IC 12-14-2-22.
- (2) Treat an AFDC recipient as the employer would treat a typical employee, including offering the same pay scales and promotion opportunities offered to a typical employee.

As added by P.L.2-1997, SEC.34.

IC 12-8-12-6

Sec. 6. The director may do the following:

- (1) Establish criteria for a request for proposals to stimulate public-private partnerships to promote employment opportunities for AFDC recipients under this chapter.
- (2) Establish sanctions, including the termination of AFDC assistance, for an AFDC recipient who refuses to participate in an employment or a job training opportunity offered to AFDC recipients under this chapter.
- (3) Establish a procedure to set priorities for the entry of recipients into job placement and training.

As added by P.L.2-1997, SEC.34.

IC 12-8-12-7

Sec. 7. The director may adopt rules under IC 4-22-2 necessary to implement this chapter.

As added by P.L.2-1997, SEC.34.

IC 12-8-13 Repealed

(Repealed by P.L.102-1998, SEC.1.)

IC 12-9-5

Chapter 5. Duties of Division

IC 12-9-5-3**General administrative duties**

Sec. 3. The division shall administer the following programs:

- (1) Programs established under any of the following statutes:

- (A) This article.
- (B) IC 12-10.
- (C) IC 12-11.
- (D) IC 12-12.
- (E) IC 12-12.5.

- (2) Programs under the following statutes, to the extent the division has responsibilities for programs under those statutes:

- (A) IC 12-24.
- (B) IC 12-26.
- (C) IC 12-27.

- (D) IC 12-28.
- (E) IC 12-29.
- (F) IC 12-30.

- (3) Supported employment for a person with developmental disabilities.
- (4) Epilepsy service centers program.
- (5) Epilepsy clinic program.
- (6) Medicaid waivers for in-home services.

As added by P.L.2-1992, SEC.3. Amended by P.L.243-2003, SEC.9.

IC 12-10-3

Chapter 3. Adult Protective Services

IC 12-10-3-1

Sec. 1. As used in this chapter, "adult protective services unit" refers to the entity with whom the division contracts to carry out the duties listed in section 8 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.2.

IC 12-10-3-2

Sec. 2. (a) As used in this chapter, "endangered adult" means an individual who is:

- (1) at least eighteen (18) years of age;
- (2) incapable by reason of mental illness, mental retardation, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and
- (3) harmed or threatened with harm as a result of:

(A) neglect;

(B) battery; or

(C) exploitation of the individual's personal services or property.

(b) An individual is not an endangered adult solely:

- (1) for the reason that the individual is being provided spiritual treatment in accordance with a recognized religious method of healing instead of specified medical treatment if the individual would not be considered to be an endangered adult if the individual were receiving the medical treatment; or
- (2) on the basis of being physically unable to provide self care when appropriate care is being provided.

As added by P.L.2-1992, SEC.4. Amended by P.L.77-1992, SEC.1; P.L.24-1997, SEC.21.

IC 12-10-3-3

Sec. 3. As used in this chapter, "governmental entity" means an office or a department that is under the direct supervision of a local elected official or a county office.

As added by P.L.2-1992, SEC.4. Amended by P.L.4-1993, SEC.36; P.L.5-1993, SEC.49.

IC 12-10-3-4

Sec. 4. As used in this chapter, "life threatening emergency" means a situation in which:

- (1) a severe threat to the life or health of an endangered adult exists;
- (2) immediate care or treatment is required to alleviate that threat; and
- (3) the endangered adult is unable to provide or obtain the necessary care or treatment.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-5

Sec. 5. As used in this chapter, "protective services" refers to available medical, psychiatric, residential, and social services that are necessary to protect the health or safety of an endangered adult.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-6

Sec. 6. For the purposes of this chapter, an individual has "reason to believe" that a particular adult is an endangered adult if the individual has been presented with evidence that, if presented to an individual of similar background and training, would cause the individual to believe that the adult is an endangered adult.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-7

Sec. 7. (a) The division shall contract for the services required in each county under this chapter with:

- (1) the prosecuting attorney;
- (2) the prosecuting attorney to perform part of the services and a governmental entity qualified to perform

the remainder of the services required; or

(3) if the prosecuting attorney decides not to enter into a contract, a governmental entity qualified to provide the services required.

(b) The contracts entered into by the division under this section must specify that the notification provisions described in sections 21(4) and 28(b)(5) of this chapter must be followed.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.1; P.L.21-1996, SEC.3.

IC 12-10-3-8

Sec. 8. If the adult protective services unit has reason to believe that an individual is an endangered adult, the adult protective services unit shall do the following:

(1) Investigate the complaint or cause the complaint to be investigated by a law enforcement or other agency and make a determination as to whether the individual reported is an endangered adult.

(2) Upon a determination that an individual is an endangered adult under this chapter, do the following:

(A) Initiate procedures that the adult protective services unit determines are necessary, based on an evaluation of the needs of the endangered adult, to protect the endangered adult.

(B) Coordinate and cooperate with the division or other appropriate person to obtain protective services for the endangered adult, including the development of a plan in cooperation with the endangered adult, whereby the least restrictive protective services necessary to protect the endangered adult will be made available to the endangered adult.

(C) Monitor the protective services provided the endangered adult to determine the effectiveness of the services.

(D) Comply with the notification requirements described in sections 21(4) and 28(b)(5) of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.2.

IC 12-10-3-9

Sec. 9. (a) An individual who believes or has reason to believe that another individual is an endangered adult shall make a report under this chapter.

(b) If an individual is required to make a report under this chapter in the individual's capacity as a member of the staff of a medical or other public or private institution, school, hospital, facility, or agency, the individual shall immediately notify the individual in charge of the institution, school, hospital, facility, or agency, or the individual's designated agent, who also becomes responsible to report or cause a report to be made.

(c) This section does not relieve an individual of the obligation to report on the individual's own behalf, unless a report has already been made to the best of the individual's belief.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-10

Sec. 10. (a) Each endangered adult report made under this chapter shall be communicated immediately to at least one (1) of the following:

(1) The adult protective services unit.

(2) A law enforcement agency.

(3) The division by telephone on the statewide toll free telephone number established under section 12 of this chapter.

(b) A law enforcement agency that receives an endangered adult report shall immediately communicate the report to the adult protective services unit and the unit shall notify the division of the report.

(c) Reports must include as much of the following information as is known:

(1) The name, age, and address of the endangered adult.

(2) The names and addresses of family members or other persons financially responsible for the endangered adult's care or other individuals who may be able to provide relevant information.

(3) The apparent nature and extent of the alleged neglect, battery, or exploitation and the endangered adult's physical and mental condition.

(4) The name, address, and telephone number of the reporter and the basis of the reporter's knowledge.

(5) The name and address of the alleged offender.

(6) Any other relevant information regarding the circumstances of the endangered adult.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.4.

IC 12-10-3-11

Sec. 11. (a) A person, other than a person against whom a complaint concerning an endangered adult has been made, who in good faith:

(1) makes or causes to be made a report required to be made under this chapter;

- (2) testifies or participates in any investigation or administrative or judicial proceeding on matters arising from the report;
- (3) makes or causes to be made photographs or x-rays of an endangered adult; or
- (4) discusses a report required to be made under this chapter with the division, the adult protective services unit, a law enforcement agency, or other appropriate agency;
- is immune from both civil and criminal liability arising from those actions.
- (b) An individual may not be excused from testifying before a court or grand jury concerning a report made under this chapter on the basis that the testimony is privileged information, unless the individual is an attorney, a physician, a clergyman, a husband, or a wife who is not required to testify under IC 34-46-3-1.
- (c) An employer may not discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action to retaliate against an employee who in good faith files a report under this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.1-1998, SEC.102.

IC 12-10-3-12

Sec. 12. The division shall establish a statewide toll free telephone line continuously open to receive reports of suspected neglect, battery, or exploitation.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-13

Sec. 13. The division shall maintain the following:

- (1) Records on individuals that the division and adult protective services units have determined to be endangered adults and the protective services needed.
- (2) Records of agencies, persons, or institutions who are determined to have permitted neglect, battery, or exploitation of endangered adults.
- (3) Nonidentifying statistical records concerning unsubstantiated reports about endangered adults.
- The information maintained under this section shall be used solely for statistical purposes and must be available to law enforcement officials, state licensing agencies, and other officials and employees of municipal, county, and state government having a legitimate interest in the welfare of individuals who may be endangered adults or who have a legitimate interest in the operation of agencies or institutions providing care to individuals served under this chapter.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-14

Sec. 14. The division shall refer reports of neglect, battery, or exploitation to appropriate adult protective services units.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-15

Sec. 15. Reports made under this chapter and any other information obtained, reports written, or photographs taken concerning the reports are confidential and may be made available only to the individuals authorized in section 13 of this chapter as determined necessary by the division:

- (1) for purposes of providing or monitoring protective services under this chapter;
- (2) with the consent of all parties named in the report; or
- (3) upon the issuance of a court order releasing the information.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.3.

IC 12-10-3-16

Sec. 16. If the adult protective services unit determines that a report concerning an endangered adult is unsubstantiated, the adult protective services unit and the division shall destroy any identifying records the unit and division possess concerning the report.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-17

Sec. 17. If an adult protective services unit receives a report alleging that an individual who is a resident of a facility licensed under IC 16-28 is an endangered adult, the adult protective services unit shall immediately communicate the report to the state department of health under IC 16-28-4-1. The division or the adult protective services unit shall perform the other responsibilities concerning endangered adults under section 8 of this chapter only if the state department of health requests the assistance of the division or the adult protective services unit.

As added by P.L.2-1992, SEC.4. Amended by P.L.2-1993, SEC.77.

IC 12-10-3-18

Sec. 18. If it appears that the immediate health or safety of an endangered adult is in danger, the division or adult protective services unit shall immediately refer the matter to the appropriate law enforcement agency and shall assist the law enforcement agency as requested by that agency. In all other cases, referral to the appropriate adult protective services unit shall be made within five (5) working days after the receipt of a report.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-19

Sec. 19. The circuit and superior courts with jurisdiction in the county in which the alleged endangered adult resides have original and concurrent jurisdiction over a matter filed under this chapter.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-20

Sec. 20. If an endangered adult gives consent to receive protective services arranged by the division or adult protective services unit and another person interferes with the delivery of the services, the division or adult protective services unit may, through the prosecuting attorney's office of the county in which the endangered adult resides, petition the circuit or superior court for an order to do the following:

- (1) Enjoin the interference with the delivery of the services.
- (2) Implement the delivery of services the endangered adult has consented to receive.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-21

Sec. 21. If an alleged endangered adult does not or is unable to consent to the receipt of protective services arranged by the division or the adult protective services unit or withdraws consent previously given, the adult protective services unit, either directly or through the prosecuting attorney's office in the county in which the endangered adult resides, may petition the court to require the alleged endangered adult to receive protective services. Any person upon consent of the adult protective services unit, may petition the court to require the alleged endangered adult to receive protective services. The petition must be under oath or affirmation and must include the following:

- (1) The name, age, and residence of the alleged endangered adult who is to receive protective services.
- (2) The nature of the problem or reason for the filing of the petition for protective order.
- (3) The name and address of the petitioner and the name and address of the person or organization that may be required to complete the court ordered protective services. If the petitioner is an organization, the petition must contain information concerning the title and authority of the individual filing on behalf of that organization.
- (4) Certification that:
 - (A) notice of the petition has been given to the alleged endangered adult, the alleged endangered adult's attorney, if any, or the alleged endangered adult's next of kin or guardian, if any; and
 - (B) section 21.5 of this chapter regarding notice to the alleged endangered adult's next of kin has been complied with.

If notice has not been given, a description of the attempts to give notice shall be given.

- (5) The name and address of the individuals most closely related by blood or marriage to the alleged endangered adult, if known.
- (6) A description of the proposed protective services to be provided.
- (7) A statement that the adult protective services unit has been notified and consented to the petition if the petitioner is not the adult protective services unit.

As added by P.L.2-1992, SEC.4. Amended by P.L.110-1996, SEC.4; P.L.272-1999, SEC.28.

IC 12-10-3-21.5

Sec. 21.5. Before a petition for:

- (1) a protective order under section 21 of this chapter; or
- (2) an emergency protective order under section 28 of this chapter;

of this chapter is filed, the petitioner must attempt to give actual notice of the petition to the alleged endangered adult's next of kin, if any. However, if the alleged endangered adult's next of kin cannot be located, notice to the last known address of the next of kin must be sent by certified mail on the same date that the petition is filed.

As added by P.L.110-1996, SEC.5.

IC 12-10-3-22

Sec. 22. At a hearing at which a court determines whether an endangered adult should be required to receive protective services, the endangered adult is entitled to the following:

- (1) To be represented by counsel.
- (2) To have the court appoint counsel for the endangered adult if the court determines the endangered adult is indigent.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-23

Sec. 23. The court may require an individual to receive protective services only if the court finds, after a hearing, that the individual:

- (1) is an endangered adult;
- (2) is in need of protective services; and
- (3) lacks the ability to make an informed decision concerning the endangered adult's need for protective services.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-24

Sec. 24. If, after a hearing, the court determines that an endangered adult should be required to receive protective services, the court shall issue a protective services order. The order must stipulate the following:

- (1) The objectives of the protective services order.
- (2) The least restrictive protective services necessary to attain the objectives of the protective services order that the endangered adult must receive.
- (3) The duration during which the endangered adult must receive the protective services.
- (4) That the adult protective services unit or other person designated by the court shall do the following:
 - (A) Provide or arrange for the provision of the protective services ordered by the court.
 - (B) Petition the court to modify or terminate the protective services order if:
 - (i) the protective services ordered by the court have not been effective in attaining the objectives of the protective services order;
 - (ii) the physical or mental health of the endangered adult is no longer in danger and the termination of the protective services order will not be likely to place the endangered adult's physical or mental health in danger; or
 - (iii) the endangered adult has consented to receive the protective services ordered by the court.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-25

Sec. 25. The court may modify or terminate a protective services order upon its own motion or upon the motion of any of the following:

- (1) The endangered adult.
- (2) The endangered adult's guardian, custodian, or guardian ad litem.
- (3) The adult protective services unit.
- (4) Any person providing services to the endangered adult under the protective services order.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-26

Sec. 26. Every six (6) months after the date of the original protective services order or more often if ordered by the court, the adult protective services unit shall petition the court to hold a hearing on the question of continuing jurisdiction. For jurisdiction to continue, the court must find one (1) of the following:

- (1) That the objectives of the order have not been attained, but that there is a reasonable probability that the objectives will be attained if the order is continued with or without modifications.
- (2) That the objectives of the order have been attained, but that termination of the order will likely place the endangered adult's physical or mental health in danger.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-27

Sec. 27. The court may issue an order to:

- (1) enjoin a person from interference with the delivery of a protective service ordered under section 24 of this chapter; or
- (2) direct a person to take actions to implement the delivery of the protective services ordered under section

24 of this chapter.

As added by P.L. 2-1992, SEC. 4. Amended by P.L. 77-1992, SEC. 2.

IC 12-10-3-28

Sec. 28.

(a) If: (1) an alleged endangered adult does not or is unable to consent to the receipt of protective services arranged by the division or the adult protective services unit or withdraws consent previously given; and (2) the endangered adult is involved in a life threatening emergency; the adult protective services unit, either directly or through the prosecuting attorney's office of the county in which the alleged endangered adult resides, may petition the superior or circuit court in the county where the alleged endangered adult resides for an emergency protective order.

(b) A petition for an emergency protective order must be under oath or affirmation and must include the following:

- (1) The name, age, and residence of the endangered adult who is to receive emergency protective services.
- (2) The nature of the problem and an allegation that a life threatening emergency exists.
- (3) Evidence that immediate and irreparable injury will result if there is a delay in the provision of services.
- (4) The name and address of the petitioner who is filing the petition and the name and address of the person or organization that may be required to complete the court ordered emergency protective services.
- (5) Certification that:

(A) notice has been given to the alleged endangered adult, the alleged endangered adult's attorney, if any, or the alleged endangered adult's next of kin, if any; and

(B) section 21.5 of this chapter regarding notice to the alleged endangered adult's next of kin has been complied with.

If notice has not been given, a description of the attempts to give notice shall be given.

(6) A description of the emergency protective services to be provided.

(c) If, after the hearing of the petition, the court determines that the endangered adult should be required to receive emergency protective services, the court shall issue an emergency protective order if the court finds the following:

- (1) The individual is an endangered adult.
- (2) A life threatening emergency exists.
- (3) The endangered adult is in need of the proposed emergency protective services.

The court may issue the order ex parte.

(d) An emergency protective order must stipulate the following:

- (1) The objectives of the emergency protective order.
- (2) The least restrictive emergency protective services necessary to attain the objectives of the emergency protective order that the endangered adult must receive.
- (3) The duration during which the endangered adult must receive the emergency protective services.
- (4) That the emergency protective services unit or other person designated by the court shall do the following:

(A) Provide or arrange for the provision of the emergency protective services ordered by the court.

(B) Petition the court to modify or terminate the emergency protective order if:

- (i) the emergency protective services ordered by the court have not been effective in attaining the objectives of the emergency protective order;
- (ii) the physical or mental health of the endangered adult is no longer in danger and the termination of the emergency protective order will not be likely to place the endangered adult's physical or mental health in danger; or
- (iii) the endangered adult has consented to receive the emergency protective services ordered by the court.

(e) The court may issue an order to:

- (1) enjoin a person from interfering with the delivery of services ordered by an emergency protective order issued under this section; or
- (2) direct a person to take actions to implement the delivery of services ordered by an emergency protective order issued under this section.

(f) An emergency protective order issued under this section may not remain in effect for longer than:

- (1) ten (10) days; or
- (2) thirty (30) days if the adult protective services unit shows the court that an extraordinary need exists that requires the order to remain in effect for not more than thirty (30) days.

(g) If at the expiration of an order the adult protective services unit determines that the endangered adult is

in need of further protective services and that the endangered adult does not consent to the receipt of the services, a petition may be filed under section 21 of this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.77-1992, SEC.3; P.L.110-1996, SEC.6; P.L.272-1999, SEC.29.

IC 12-10-3-29

Sec. 29. An officer, agency, or employee of the division or adult protective services unit who performs duties in good faith under this chapter in rendering care to an endangered adult is immune from both civil and criminal liability arising from acts or omissions in rendering the service or care to the endangered adult.

As added by P.L.2-1992, SEC.4.

IC 12-10-3-30

Sec. 30. The division shall report to the general assembly before February 2 of each year concerning the division's activities under this chapter during the preceding calendar year. The report must include the recommendations of the division relating to the need for continuing care of endangered adults under this chapter.

As added by P.L.2-1992, SEC.4. Amended by P.L.21-1996, SEC.5.

IC 12-10-3-31

Sec. 31. An individual is not in need of protective services under this chapter:

- (1) solely for the reason that the individual is being provided spiritual treatment in accordance with a recognized religious method of healing instead of specified medical treatment; and
- (2) if the individual would not be considered to be an endangered adult if the individual were receiving the medical treatment.

As added by P.L.77-1992, SEC.4.

IC 12-10-6

Chapter 6. Residential Care Assistance

IC 12-10-6-1

Sec. 1. (a) An individual who:

- (1) is at least sixty-five (65) years of age, blind, or disabled; and
- (2) is a resident of a county home;

is eligible to receive assistance payments from the state if the individual would be eligible for assistance under the federal Supplemental Security Income program except for the fact that the individual is residing in a county home.

(b) The amount of nonmedical assistance to be paid on behalf of a resident in a county home must be based on the daily rate established by the division. The rate for facilities under this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division.

(c) The rate for facilities under this section but not licensed under IC 16-28 must be the lesser of:

- (1) an upper rate limit established by a rule adopted by the division; or
- (2) a reasonable and adequate rate to meet the costs, determined by generally accepted accounting principles, that are incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

(d) The recipient shall be paid or allowed to retain from the recipient's income a monthly personal allowance. The amount:

- (1) is fifty-two dollars (\$52);
- (2) is exempt from income eligibility consideration by the division; and
- (3) may be exclusively used by the recipient for personal needs.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual is allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which the month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars (\$16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(h) The division of disability, aging, and rehabilitative services, in cooperation with the state department of health taking into account licensure requirements under IC 16-28, shall adopt rules under IC 4-22-2 governing the reimbursement to facilities under this section. The rules must be designed to determine the costs that must be incurred by efficiently and economically operated facilities to provide room, board, laundry, and other services, along with minimal administrative direction to individuals who receive residential care in the facilities under this section. A rule adopted under this subsection by:

(1) the division; or

(2) the state department of health;

must conform to the rules for residential care facilities that are licensed under IC 16-28.

(i) A rate established under this section may be appealed according to the procedures under IC 4-21.5.

(j) The division shall annually review each facility's rate using the following:

(1) Generally accepted accounting principles.

(2) The costs incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

As added by P.L.2-1992, SEC.4. Amended by P.L.2-1993, SEC.78; P.L.4-1993, SEC.37; P.L.5-1993, SEC.50; P.L.152-1995, SEC.2; P.L.24-1997, SEC.22; P.L.128-1999, SEC.6; P.L.272-1999, SEC.30; P.L.294-2001, SEC.1.

IC 12-10-6-2 Repealed

(Repealed by P.L.1-2003, SEC.104.)

IC 12-10-6-2.1

Residential care assistance; eligibility; mental retardation; alternative placement; personal allowance; prospective prenegotiated payment rate; Christian Science facility placement

Sec. 2.1. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsections (g) and (i), an individual is eligible for residential care assistance if the division determines that the individual:

(1) is a recipient of Medicaid or the federal Supplemental Security Income program;

(2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;

(3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28; and

(4) can be adequately cared for in a residential care setting.

(b) Individuals suffering from mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

(1) evaluate a person seeking admission to a home or facility under subsection (a); or

(2) evaluate a person who has been admitted to a home or facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

If the service coordinator determines the person evaluated under this subsection is mentally retarded, the service coordinator may recommend an alternative placement for the person.

(d) Except as provided in section 5 of this chapter, residential care consists of only room, board, and laundry, along with minimal administrative direction. State financial assistance may be provided for such care in a boarding or residential home of the applicant's choosing that is licensed under IC 16-28 or a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., that meets certain life safety standards considered necessary by the

state fire marshal. Payment for such care shall be made to the provider of the care according to division directives and supervision. The amount of nonmedical assistance to be paid on behalf of a recipient living in a boarding home, residential home, or Christian Science facility shall be based on the daily rate established by the division. The rate for facilities that are referred to in this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division. The recipient may retain from the recipient's income a monthly personal allowance of fifty-two dollars (\$52). This amount is exempt from income eligibility consideration by the division and may be exclusively used by the recipient for the recipient's personal needs. However, if the recipient's income is less than the amount of the personal allowance, the division shall pay to the recipient the difference between the amount of the personal allowance and the recipient's income. A reserve or an accumulated balance from such a source, together with other sources, may not be allowed to exceed the state's resource allowance allowed for adults eligible for state supplemental assistance or Medicaid as established by the rules of the office of Medicaid policy and planning.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual shall be allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which that month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay any state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The rate of payment to the provider shall be determined in accordance with a prospective prenegotiated payment rate predicated on a reasonable cost related basis, with a growth of profit factor, as determined in accordance with generally accepted accounting principles and methods, and written standards and criteria, as established by the division. The division shall establish an administrative appeal procedure to be followed if rate disagreement occurs if the provider can demonstrate to the division the necessity of costs in excess of the allowed or authorized fee for the specific boarding or residential home. The amount may not exceed the maximum established under subsection (d).

(h) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars (\$16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(i) An individual who, before September 1, 1983, has been admitted to a home or facility that provides residential care under this section is eligible for residential care in the home or facility.

(j) The director of the division may contract with the division of mental health and addiction or the division of disability, aging, and rehabilitative services to purchase services for individuals suffering from mental illness or a developmental disability by providing money to supplement the appropriation for community residential care programs established under IC 12-22-2 or community residential programs established under IC 12-11-1.1-1.

(k) A person with a mental illness may not be placed in a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

As added by P.L.1-2003, SEC.52.

IC 12-10-6-3

Sec. 3. (a) The division, in cooperation with the state department of health taking into account licensure requirements under IC 16-28, shall adopt rules under IC 4-22-2 governing the reimbursement to facilities under section 2 of this chapter. The rules must be designed to determine the costs that must be incurred by efficiently and economically operated facilities in order to provide room, board, laundry, and other services, along with minimal administrative direction to individuals who receive residential care in the

facilities under section 2 of this chapter. A rule adopted under this subsection by:

(1) the division; or

(2) the state department of health;

must conform to the rules for residential care facilities that are licensed under IC 16-28.

(b) Any rate established under section 2 of this chapter may be appealed according to the procedures under IC 4-21.5.

(c) The division shall annually review each facility's rate using the following:

(1) Generally accepted accounting principles.

(2) The costs incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

As added by P.L.2-1992, SEC.4. Amended by P.L.2-1993, SEC.80; P.L.4-1993, SEC.38; P.L.5-1993, SEC.51; P.L.152-1995, SEC.3; P.L.24-1997, SEC.24.

IC 12-10-6-4

Sec. 4. (a) An individual who:

(1) is receiving residential care assistance under section 1 or 2 of this chapter; and

(2) has an increase in income that would make the individual ineligible for residential care assistance; may elect to continue to be eligible for residential care assistance by paying the excess income to the home or facility that provides residential care.

(b) If an individual applies the excess income toward the residential care assistance under subsection (a), the division shall reduce the payment to the home or facility that provides residential care by the amount received by the home or facility.

As added by P.L.2-1992, SEC.4. Amended by P.L.27-1992, SEC.10; P.L.24-1997, SEC.25.

IC 12-10-6-5

Sec. 5. (a) An individual who is determined as disabled under section 2(a)(2) of this chapter because of mental illness may be admitted to a home or facility that provides residential care to the extent that money is available for the care.

(b) Within thirty (30) days after a mentally ill individual is placed in a home or facility that provides residential care, a comprehensive care plan must be developed for the individual.

(c) The residential care facility, in cooperation with the community mental health center or an individual's managed care provider (as defined in IC 12-7-2-127(b)) serving the area in which the residential care facility is located, shall develop the comprehensive care plan for the individual. The plan must include the following:

(1) Psychosocial rehabilitation services that are provided within the community.

(2) A comprehensive range of activities to meet multiple levels of need, including the following:

(A) Recreational and socialization activities.

(B) Social skills.

(C) Educational, training, occupational, and work programs.

(D) Opportunities for progression into less restrictive and more independent living arrangements.

(3) Appropriate alternate placement if the individual's needs cannot be met by the facility.

(d) The health facilities council shall, in coordination with the division of mental health and the division, adopt rules under IC 4-22-2 to govern:

(1) residential care; and

(2) the comprehensive care plan;

provided to individuals suffering from mental illness who reside under this chapter in a home or facility that provides residential care.

As added by P.L.2-1992, SEC.4. Amended by P.L.40-1994, SEC.19.

IC 12-10-6-6

Sec. 6. (a) To obtain assistance under this chapter, an individual must apply to the local administrative unit designated by the division. The application must be:

(1) in writing or reduced to writing;

(2) made in the manner and upon the form prescribed by the division; and

(3) verified by the oath of the applicant.

(b) If an individual applying for assistance is mentally or physically unable to sign an application verified by the oath of the applicant, an application may be made by an interested individual acting in the applicant's behalf, and the application shall be verified upon the basis of information and belief of the interested

individual.

(c) Each application must contain a statement of all of the following:

- (1) The amount of property, both personal and real, in which the applicant has an interest.
- (2) All income that the applicant has at the time of the filing of the application.
- (3) Any other information prescribed by the division.

As added by P.L.2-1992, SEC.4. Amended by P.L.128-1999, SEC.8.

IC 12-10-6-7

Sec. 7. Whenever the local administrative unit designated by the division receives an application for assistance under this chapter, an investigation shall be made of the circumstances of the applicant to ascertain the facts supporting the application and any other information that may be required by the rules of the division.

As added by P.L.2-1992, SEC.4.

IC 12-10-6-8

Sec. 8. Upon completion of the investigation, the local administrative unit designated by the division shall make a report and a recommendation to the division relative to the eligibility of the applicant for assistance, the amount of the assistance, and the date when the assistance should begin.

As added by P.L.2-1992, SEC.4.

IC 12-10-6-9

Sec. 9. The division shall determine the amount of the assistance and the date on which the assistance should begin. In determining the amount of assistance, due account shall be taken of any income or property of the applicant and of any support that the applicant may receive from other sources, including any benefit the applicant is receiving from the Social Security Administration. The award made by the division and a subsequent modification of the award is binding upon the state and shall be complied with by the state until the award or modified award is vacated.

As added by P.L.2-1992, SEC.4.

IC 12-10-6-10

Sec. 10. (a) The assistance shall be paid monthly to:

- (1) the recipient; or
- (2) the administrator of the county home if the local administrative unit designated by the division so designates;

upon warrant of the auditor of state from money appropriated to the division for that purpose.

(b) The auditor of state shall draw the warrants based upon a verified schedule of the recipients and the amount payable to each recipient, prepared and verified by the director of the division in accordance with awards made by the division.

As added by P.L.2-1992, SEC.4.

IC 12-10-6-11

Sec. 11. (a) All assistance granted under this chapter shall be reconsidered as frequently as is required by the rules of the division. After further investigation that the local administrative unit designated by the division considers necessary or that the division requires, the amount of assistance may be changed or entirely withdrawn if the division finds that the recipient's circumstances have altered sufficiently to warrant that action.

(b) Whenever assistance is withdrawn, revoked, suspended, or in any way changed, the division shall immediately report the decision to the local administrative unit designated by the division.

(c) If assistance is in any way changed, the recipient is entitled to a hearing under the rules adopted by the division.

As added by P.L.2-1992, SEC.4.

IC 12-10-6-12

Sec. 12. When an individual is admitted to a county home, the administrator of the home shall assist the resident in applying for assistance under this chapter.

As added by P.L.2-1992, SEC.4.

IC 12-10-6-13

Sec. 13. If an individual receives a state or federal higher education award that is paid directly to an approved institution of higher learning (as defined in IC 20-12-21-3) for that individual's benefit:

- (1) that individual is not required to report that award as income or as a resource of that individual when applying for assistance provided under this chapter; and
- (2) the award may not be considered as income or a resource of the individual in determining initial or

continuing eligibility for assistance under this chapter.

As added by P.L.2-1992, SEC.4.

IC 12-10-6-14

Sec. 14. (a) Each home or facility that receives funding from the state for residential care assistance under this chapter shall file an operation cost report in a manner prescribed by the division.

(b) The division shall annually conduct a review of the operation cost reports for homes and facilities:

(1) that provide residential care; and

(2) receive funding from the state for residential care assistance under this chapter; to determine the actual cost of providing services to individuals who receive residential care assistance.

(c) Applying the results of the review under subsection (b), the division shall submit a recommended modification of rate reimbursement for residential care assistance to the budget agency before April 1 of each year.

As added by P.L.2-1992, SEC.4. Amended by P.L.24-1997, SEC.26.

IC 12-10-11.5-1

"Institution"

Sec. 1. As used in this chapter, "institution" means any of the following:

(1) A health facility licensed under IC 16-28.

(2) An intermediate care facility for the mentally retarded.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-2

Subjectivity; responsibility of ensuring costs

Sec. 2. (a) This chapter is subject to funding available to the office of the secretary of family and social services.

(b) The secretary and the director of the state budget agency are responsible for ensuring that the cost of the services provided under this chapter does not exceed the total amount of funding, including state and federal funds, that is made available by the budget agency for the program established under this chapter to provide long term care, including home and community based services.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-3

Subjectivity; responsibility of ensuring costs

Sec. 3. The office of the secretary of family and social services shall establish a comprehensive program of home and community based long term care services to provide eligible individuals with care that is not more costly than services provided to similarly situated individuals who reside in institutions.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-4

Establishment of home and community based long term care services

Sec. 4. An individual who has resided in the state for at least ninety (90) days shall be eligible for the home and community based long term care services program if the individual:

(1) participates in, or has been determined to be eligible for, the community and home options to institutional care for the elderly and disabled program established by IC 12-10-10-6; or

(2) meets the following requirements, which must meet the general eligibility standards for an individual receiving services under a home and community based Medicaid waiver:

(A) Has an income of not more than three hundred percent (300%) of the federal Supplemental Security Income level.

(B) Is unable to perform at least three (3) activities of daily living determined by an assessment conducted by an area agency on aging case manager or any other agency the state has contracted with to perform assessments.

(C) Is at risk of being placed in an institution or is currently residing in an institution and has been determined to be eligible for services under IC 12-10-10 or under a home and community based Medicaid waiver.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-5

Eligibility

Sec. 5. The state shall provide access to the following long term care services that are appropriate and

needed for an individual who is eligible for these services under this chapter:

- (1) Any home and community based service that is available through:
 - (A) the community and home options to institutional care for the elderly and disabled program; or
 - (B) any state Medicaid waiver.
- (2) Personal care services.
- (3) Self-directed care.
- (4) Assisted living.
- (5) Adult foster care.
- (6) Adult day care services.
- (7) The provision of durable medical equipment or devices.
- (8) Housing modifications.
- (9) Adaptive medical equipment and devices.
- (10) Adaptive nonmedical equipment and devices.
- (11) Any other service that is necessary to maintain an individual in a home and community based setting.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-6

Access to services

- Sec. 6. (a) The office of the secretary of family and social services shall annually determine any state savings generated by home and community based services under this chapter by reducing the use of institutional care.
- (b) The secretary shall annually report to the governor, the budget agency, the budget committee, the select commission on Medicaid oversight, and the executive director of the legislative services agency the savings determined under subsection (a).
- (c) Savings determined under subsection (a) may be used to fund the state's share of additional home and community based Medicaid waiver slots.

As added by P.L.274-2003, SEC.5.

IC 12-10-11.5-7

Use of volunteers

Sec. 7. When possible, the office of the secretary of family and social services shall make use of volunteers and volunteer groups, including faith based groups, when executing its duties under this chapter.

As added by P.L.274-2003, SEC.5.

IC 12-10-15-14

Adoption of rules

- Sec. 14. (a) The director shall adopt rules under IC 4-22-2 necessary to carry out this chapter.
- (b) The director shall adopt rules concerning the following:
- (1) Procedures for the posting of notices at housing with services establishments, area agencies on aging, and centers for independent living (as defined by IC 12-12-8-1) that advise residents of their rights under this chapter.
 - (2) Procedures for residents and their representatives to file complaints with the director concerning violations of this chapter.

As added by P.L.73-1998, SEC.7. Amended by P.L.184-2003, SEC.4.

IC 12-10-15-15

Enforcement; penalties

- Sec. 15. (a) The director shall enforce this chapter.
- (b) The director may impose a penalty of not less than one hundred dollars (\$100) but not more than one thousand dollars (\$1,000) for each day of violation of this chapter. However, the total penalty for each violation may not exceed ten thousand dollars (\$10,000).
- (c) A person aggrieved by a penalty imposed under this section may request a review under IC 4-21.5-3-7. If a request for a hearing is not filed within fifteen (15) days after the penalty is imposed, the determination of the director and the penalty is final.
- (d) If the director determines that a housing with services establishment has had substantial and repeated violations of this chapter, the director may prohibit a housing with services establishment from using the term "assisted living" to describe the housing with services establishment's services and operations to the public.
- (e) If the director determines that an operator or administrator of a housing with services establishment has

intentionally violated this chapter or has made fraudulent and material misrepresentations to a resident, the director may request the attorney general to investigate and take appropriate action against the operator or administrator.

(f) Penalties collected under this section shall be deposited in the state general fund.

As added by P.L.184-2003, SEC.5.

IC 12-10-17-12

Registration of personal services attendants

Sec. 12. (a) The division shall register an individual who provides the following:

(1) A personal resume containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must certify that the information contained in the resume is true and accurate.

(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under IC 10-13-3 or another source allowed by law.

(3) If applicable, the individual's state nurse aide registry report from the state department of health. This subdivision does not require an individual to be a nurse aide.

(4) Three (3) letters of reference.

(5) A registration fee. The division shall establish the amount of the registration fee.

(6) Proof that the individual is at least eighteen (18) years of age.

(7) Any other information required by the division.

(b) A registration is valid for two (2) years. A personal services attendant may renew the personal services attendant's registration by updating any information in the file that has changed and by paying the fee required under subsection (a)(5). The limited criminal history check and report required under subsection (a)(2) and (a)(3) must be updated every two (2) years.

(c) The division and any organization designated under section 11 of this chapter shall maintain a file for each personal services attendant that contains:

(1) comments related to the provision of attendant care services submitted by an individual in need of self-directed in-home care who has employed the personal services attendant; and

(2) the items described in subsection (a)(1) through (a)(4).

(d) Upon request, the division shall provide to an individual in need of self-directed in-home care the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the requested geographic area.

(2) A copy of the information of a specified personal services attendant who is on file with the division under subsection (c). The division may charge a fee for shipping, handling, and copying expenses.

As added by P.L.255-2001, SEC.11. Amended by P.L.134-2002, SEC.2; P.L.2-2003, SEC.40.

IC 12-11-1.1-1

Establishment; services; approving entities and providers; supported living service arrangements; community based services; administration

Sec. 1. (a) The bureau of developmental disabilities services is established within the division.

(b) The bureau shall plan, coordinate, and administer the provision of individualized, integrated community based services for developmentally disabled individuals and their families, within the limits of available resources. The planning and delivery of services must be based on the developmentally disabled individual's future plans rather than on traditional determinations of eligibility for discrete services, with an emphasis on the preferences of the developmentally disabled individual and that individual's family.

(c) Services for developmentally disabled individuals must be services that meet the following conditions:

(1) Are provided under public supervision.

(2) Are designed to meet the developmental needs of developmentally disabled individuals.

(3) Meet all required state and federal standards.

(4) Are provided by qualified personnel.

(5) To the extent appropriate, are provided in home and community based settings in which individuals without disabilities participate.

(6) Are provided in conformity with a service plan developed under IC 12-11-2.1-2.

(d) The bureau shall approve entities to provide community based services and supports.

(e) The bureau shall approve and monitor community based residential, habilitation, and vocational service providers that provide alternatives to placement of developmentally disabled individuals in state institutions and health facilities licensed under IC 16-28 for developmentally disabled individuals. The services must

simulate, to the extent feasible, patterns and conditions of everyday life that are as close as possible to normal. The community based service categories include the following:

(1) Supervised group living programs, which serve at least four (4) individuals and not more than eight (8) individuals, are funded by Medicaid, and are licensed by the community residential facilities council.

(2) Supported living service arrangements to meet the unique needs of individuals in integrated settings. Supported living service arrangements providing residential services may not serve more than four (4) unrelated individuals in any one (1) setting. However, the head of the bureau shall waive this limitation for a setting providing residential services to more

than four (4) unrelated individuals in any one (1) setting if the setting was in existence on June 30, 1999.

(f) To the extent that services described in subsection (e) are available and meet the individual's needs, an individual is entitled to receive services in the least restrictive environment possible.

(g) Community based services under subsection (e)(1) or (e)(2) must consider the needs of and provide choices and options for:

(1) developmentally disabled individuals; and

(2) families of developmentally disabled individuals.

(h) The bureau shall administer a system of service coordination to carry out this chapter.

As added by P.L.272-1999, SEC.33. Amended by P.L.243-2003, SEC.11.

IC 12-11-1.1-10

Assessment of supported living services and support providers

Sec. 10. (a) The office may assess providers of supported living services and supports to individuals with a developmental disability (described in 460 IAC 6) in an amount not to exceed two and five tenths percent (2.5%) of all service revenue included on the annual plan of care excluding resident living allowances.

(b) The assessments shall be paid to the office not later than the tenth day of the month for each month that the individual is in service. The office or the office's designee may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) The community services quality assurance fund is created. The fund shall be administered by the office.

(d) Revenue from the assessments under this section shall be deposited into the fund. Money in the fund may be used only for the funding of licensing, certification, and quality assurance services. The aggregate amount of the fee may not exceed the state's estimated cost of operating the programs.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) If federal financial participation to match the assessments in subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.

As added by P.L.259-2003, SEC.1.

IC 12-13-12

Chapter 12. Commission on the Social Status of Black Males

IC 12-13-12-12 Repealed

(Repealed by P.L.93-2003, SEC.2.)

IC 12-13-12-13

Special fund

Sec. 13. (a) The commission on the social status of black males special fund is established to provide money for special projects of the commission.

(b) The fund shall be administered by the treasurer of state.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of gifts, contributions, and money donated to the commission.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(f) Interest accrues to the fund.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(h) Money in the fund is appropriated continuously for the purpose stated in subsection (a).

As added by P.L.93-2003, SEC.1.

IC 12-15
ARTICLE 15. MEDICAID
IC 12-15-1
Chapter 1. Administration

IC 12-15-1-16

School corporation or school corporation's provider; enrollment in Medicaid program; sharing reimbursable costs

Sec. 16. (a) Each:

(1) school corporation; or

(2) school corporation's employed, licensed, or qualified provider;

must enroll in a program to use federal funds under the Medicaid program (IC 12-15-1 et seq.) with the intent to share the costs of services that are reimbursable under the Medicaid program and that are provided to eligible children by the school corporation. However, a school corporation or a school corporation's employed, licensed, or qualified provider is not required to file any claims or participate in the program developed under this section.

(b) The office of Medicaid policy and planning and the department of education may develop policies and adopt rules to administer the program developed under this section.

(c) Three percent (3%) of the federal reimbursement for paid claims that are submitted by the school corporation under the program required under this section must be:

(1) distributed to the state general fund for administration of the program; and

(2) used for consulting to encourage participation in the program.

The remainder of the federal reimbursement for services provided under this section must be distributed to the school corporation. The state shall retain the nonfederal share of the reimbursement for Medicaid services provided under this section.

(d) The office of Medicaid policy and planning, with the approval of the budget agency and after consultation with the department of education, shall establish procedures for the timely distribution of federal reimbursement due to the school corporations. The distribution procedures may provide for offsetting reductions to distributions of state tuition support or other state funds to school corporations in the amount of the nonfederal reimbursements required to be retained by the state under subsection (c).

As added by P.L.80-1994, SEC.1. Amended by P.L.224-2003, SEC.64.

IC 12-15-8

Chapter 8. Liens

IC 12-15-8-8

Attorney's fees

Sec. 8. The office shall pay attorney's fees in the amount of one (1) of the following:

(1) Seven and five-tenths percent (7.5%) of the office's recovery under the lien if the claim was collected without initiating legal proceedings.

(2) Ten percent (10%) of the office's recovery under the lien if the claim was collected by initiating legal proceedings.

As added by P.L.2-1992, SEC.9. Amended by P.L.224-2003, SEC.81

IC 12-15-8.5

Chapter 8.5. Liens on Real Property of Medicaid Recipients

IC 12-15-8.5-2

Lien for Medicaid expenditures

Sec. 2. (a) Subject to section 10 of this chapter, when the office, in accordance with 42 U.S.C. 1396p, determines that a Medicaid recipient who resides in a medical institution cannot reasonably be expected to be discharged from a medical institution and return home, the office may obtain a lien on the Medicaid recipient's real property for the cost of all Medicaid expenditures made on behalf of the recipient.

(b) The office shall conduct a look back (as described in 42 U.S.C. 1396p(c)) of a Medicaid recipient's property of at least three (3) years.

(c) A lien obtained under this chapter is subordinate to the security interest of a financial institution that loans money to be used as operating capital for the operation of a farm, a business, or income producing real property.

As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.71.

IC 12-15-8.5-3

Limitations on lien

Sec. 3. The office may not obtain a lien under this chapter if any of the following persons lawfully reside in the home of the Medicaid recipient who resides in the medical institution:

- (1) The Medicaid recipient's spouse.
- (2) The Medicaid recipient's child who is:
 - (A) less than twenty-one (21) years of age; or
 - (B) disabled as defined by the federal Supplemental Security Income program.
- (3) The Medicaid recipient's sibling who has an ownership interest in the home and who has lived in the home continuously beginning at least twelve (12) months before the recipient was admitted to the medical institution.
- (4) The Medicaid recipient's parent.

As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.72.

IC 12-15-8.5-7

Lien foreclosure; automatic expiration of lien

Sec. 7. The office may bring proceedings in foreclosure on a lien arising under this chapter:

- (1) during the lifetime of the Medicaid recipient if the Medicaid recipient or a person acting on behalf of the Medicaid recipient sells the property; or
- (2) upon the death of the Medicaid recipient.

The lien automatically expires unless the office commences a foreclosure action not later than two (2) years after the Medicaid recipient's death.

As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.74.

IC 12-15-8.5-8

Limitations on enforcement of lien

Sec. 8. The office may not enforce a lien against a Medicaid recipient's home under this chapter as long as any of the following individuals reside in the home:

- (1) The recipient's child of any age if the child:
 - (A) resided in the home for at least twenty-four (24) months before the Medicaid recipient was admitted to the medical institution;
 - (B) provided care to the Medicaid recipient that delayed the Medicaid recipient's admission to the medical institution; and
 - (C) has resided in the home on a continuous basis since the date of the individual's admission to the medical institution.
- (2) The Medicaid recipient's sibling who has an ownership interest in the home and who has lived in the home continuously beginning at least twelve (12) months before the Medicaid recipient was admitted to the medical institution.

As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.75.

IC 12-15-8.5-9

Release of lien; waiver of filing fee

Sec. 9. (a) The office shall release a lien imposed under this chapter within ten (10) business days after the county office of family and children receives notice that the Medicaid recipient:

- (1) is no longer living in the medical institution; and
 - (2) has returned home to live.
- (b) The county recorder shall waive the filing fee for the filing of a release made under this section.
- (c) If the property subject to the lien is sold, the office shall release its lien at the closing, and the lien shall attach to the net proceeds of the sale.

As added by P.L.178-2002, SEC.81. Amended by P.L.224-2003, SEC.76.

IC 12-15-8.5-10 Repealed

(Repealed by P.L.224-2003, SEC.80.)

IC 12-15-8.5-11

Repealed

(Repealed by P.L.224-2003, SEC.80.)

IC 12-15-8.5-12

Conditions under which lien is void

Sec. 12. (a) A lien under this chapter is void if both of the following occur:

- (1) The owner of property subject to a lien under this chapter or any person or corporation having an interest in the property, including a mortgagee or a lienholder, provides written notice to the office to file an action to foreclose the lien.
- (2) The office fails to file an action to foreclose the lien in the county where the property is located not later than thirty (30) days after receiving the notice.

However, this section does not prevent the claim from being collected as other claims are collected by law.

(b) A person who gives notice under subsection (a)(1) by registered or certified mail to the office at the address given in the recorded statement and notice of intention to hold a lien may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the property is located. The affidavit must state the following:

- (1) The facts of the notice.
- (2) That more than thirty (30) days have passed since the notice was received by the office.
- (3) That no action for foreclosure of the lien is pending.
- (4) That no unsatisfied judgment has been rendered on the lien.

(c) The recorder shall:

- (1) record the affidavit of service in the miscellaneous record book of the recorder's office; and
- (2) certify on the face of the record any lien that is fully released.

When the recorder records the affidavit and certifies the record under this subsection, the real estate described in the lien is released from the lien.

As added by P.L.224-2003, SEC.77.

IC 12-15-9

Chapter 9. Death and Funeral Expenses; Claims Against an Estate

IC 12-15-9-0.5

"Estate" and "nonprobate transfer" defined

Sec. 0.5. (a) As used in this chapter, "estate" includes:

- (1) all real and personal property and other assets included within an individual's probate estate;
- (2) any interest in real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship, if the joint tenancy was created after June 30, 2002; and
- (3) any real or personal property conveyed through a nonprobate transfer.

(b) As used in this chapter, "nonprobate transfer" means a valid transfer, effective at death, by a transferor:

- (1) whose last domicile was in Indiana; and
- (2) who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:

- (A) use the property for the benefit of the transferor; or
- (B) apply the property to discharge claims against the transferor's probate estate.

The term does not include transfer of a survivorship interest in a tenancy by the entireties real estate or payment of the death proceeds of a life insurance policy.

As added by P.L.152-1995, SEC.5. Amended by P.L.178-2002, SEC.82; P.L.224-2003, SEC.78.

IC 12-15-9-0.6

Claim against assets not included in probate estate; time limit

Sec. 0.6. (a) The office's claim against assets that are not included in the individual's probate estate may be enforced as set out in IC 32-17-13.

(b) Enforcement of a claim against assets that are not included in an individual's probate estate must be commenced not more than nine (9) months after the decedent's death. This limit does not apply to any assets that were not reported to the local office of the division of family and children.

As added by P.L.178-2002, SEC.83. Amended by P.L.1-2003, SEC.54.

IC 12-15-9-0.7

Limitation on claim against property conveyed to survivor through joint tenancy

Sec. 0.7. (a) This section applies only to real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship.

(b) The office may enforce its claim against any property described in subsection (a) only to the extent that the value of the recipient's combined total interest in all real property described in subsection (a) subject to the claim exceeds seventy-five thousand dollars (\$75,000).

(c) This section expires January 1, 2008.

As added by P.L.178-2002, SEC.84. Amended by P.L.224-2003, SEC.79.

IC 12-15-12

Chapter 12. Managed Care

IC 12-15-12-14

Enrollment in risk-based managed care program required

Sec. 14. (a) This section applies to a Medicaid recipient:

(1) who is determined by the office to be eligible for enrollment in a Medicaid managed care program;

(2) whose Medicaid eligibility is not based on the individual's aged, blind, or disabled status; and

(3) who resides in a county having a population of:

(A) more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000);

(B) more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000);

(C) more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

(D) more than three hundred thousand (300,000) but less than four hundred thousand (400,000); or

(E) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Not later than January 1, 2003, the office shall require a recipient described in subsection (a) to enroll in the risk-based managed care program.

(c) The office:

(1) shall apply to the United States Department of Health and Human Services for any approval necessary; and

(2) may adopt rules under IC 4-22-2; to implement this section.

As added by P.L.291-2001, SEC.160. Amended by P.L.170-2002, SEC.81; P.L.107-2002, SEC.11; P.L.1-2003, SEC.55.

IC 12-15-12-19

Disease management program; case management program

Sec. 19. (a) This section applies to an individual who:

(1) is a Medicaid recipient; and

(2) is not enrolled in the risk-based managed care program.

(b) Subject to subsection (c), the office shall develop the following programs regarding individuals described in subsection (a):

(1) A disease management program for recipients with any of the following chronic diseases:

(A) Asthma.

(B) Diabetes.

(C) Congestive heart failure or coronary heart disease.

(D) Hypertension.

(2) A case management program for recipients described in subsection (a) who are at high risk of chronic disease, that is based on a combination of cost measures, clinical measures, and health outcomes identified and developed by the office with input and guidance from the state department of health and other experts in health care case management or disease management programs.

(c) The office shall implement:

(1) a pilot program for at least two (2) of the diseases listed in subsection (b) not later than July 1, 2003; and

(2) a statewide chronic disease program as soon as practicable after the office has done the following:

(A) Evaluated a pilot program described in subdivision (1).

(B) Made any necessary changes in the program based on the evaluation performed under clause (A).

(d) The office shall develop and implement a program required under this section in cooperation with the

state department of health and shall use the following health care providers to the extent possible:

- (1) Community health centers.
- (2) Federally qualified health centers (as defined in 42 U.S.C. 1396d(l)(2)(B)).
- (3) Rural health clinics (as defined in 42 U.S.C. 1396d(l)(1)).
- (4) Local health departments.
- (5) Hospitals.

(e) The office may contract with an outside vendor or vendors to assist in the development and implementation of the programs required under this section.

(f) The office and the state department of health shall provide the select joint commission on Medicaid oversight established by IC 2-5-26-3 with an evaluation and recommendations on the costs, benefits, and health outcomes of the pilot programs required under this section. The evaluations required under this subsection must be provided not more than twelve (12) months after the implementation date of the pilot programs.

(g) The office and the state department of health shall report to the select joint commission on Medicaid oversight established by IC 2-5-26-3 not later than November 1 of each year regarding the programs developed under this section.

As added by P.L.291-2001, SEC.161. Amended by P.L.66-2002, SEC.2; P.L.212-2003, SEC.1.

IC 12-15-14.5

Chapter 14.5. Supplemental Payments to Ambulance Transportation Service Providers

IC 12-15-14.5-1

Application of chapter

Sec. 1. This chapter applies to a Medicaid provider that receives reimbursement from the office during a state fiscal year for providing ambulance transportation services.

As added by P.L.224-2003, SEC.83.

IC 12-15-14.5-2

Reimbursement of ambulance transportation service provider

Sec. 2. (a) Subject to section 6 of this chapter, for each state fiscal year beginning July 1, 2003, an ambulance transportation service provider may receive reimbursement under this chapter that is in addition to the following reimbursement:

- (1) Reimbursement under this article.
- (2) The state plan for medical assistance.
- (3) Rules and policies adopted by the office to provide ambulance transportation services.
- (b) Any additional reimbursement allowed under subsection (a) is subject to the approval by the United States Department of Health and Human Services to an amendment of the state Medicaid plan.

As added by P.L.224-2003, SEC.83.

IC 12-15-14.5-3

Schedule of payments

Sec. 3. The office shall:

- (1) develop a schedule for payments made under this chapter; and
- (2) make a payment under this chapter in accordance with the schedule.

As added by P.L.224-2003, SEC.83.

IC 12-15-14.5-4

Calculation of payment

Sec. 4. (a) Except as provided in subsection (b), the office shall calculate and make a payment under this chapter in an amount equal to the amount calculated in STEP SIX of the following formula:

STEP ONE: The office shall identify a Medicaid provider described in section 1 of this chapter that received reimbursement for ambulance transportation services during a time frame determined by the office.

STEP TWO: For each Medicaid provider described in STEP ONE, the office shall identify the ambulance transportation services for which the Medicaid provider was reimbursed.

STEP THREE: For each Medicaid provider described in STEP ONE, the office shall calculate the reimbursement paid to the Medicaid provider for the ambulance transportation services identified under STEP TWO.

STEP FOUR: For each Medicaid provider described in STEP ONE, the office shall calculate the Medicaid

provider's usual and customary charges for each of the Medicaid provider's services identified under STEP TWO.

STEP FIVE: For each Medicaid provider described in STEP ONE, the office shall subtract an amount equal to the reimbursement calculation for each of the ambulance transportation services under STEP THREE from an amount equal to the amount calculated for each of the ambulance transportation services under STEP FOUR.

STEP SIX: For each Medicaid provider described in STEP ONE, the office shall calculate the sum of each of the amounts calculated for each ambulance transportation services under STEP FIVE.

(b) For any Medicaid provider described in STEP ONE of subsection (a), the office may decline to base the calculations under STEP FOUR of subsection (a) on the Medicaid provider's usual and customary charges if the office determines a formula or criteria that will increase the amount calculated for the provider under STEP SIX of subsection (a).

As added by P.L.224-2003, SEC.83.

IC 12-15-14.5-5

Calculation of usual and customary charges

Sec. 5. The office shall establish a methodology for calculating a provider's usual and customary charges for purpose of STEP FOUR of the formula in section 4(a) of this chapter.

As added by P.L.224-2003, SEC.83.

IC 12-15-14.5-6

Intergovernmental transfer required

Sec. 6. (a) A Medicaid provider that receives reimbursement from the office during a state fiscal year for ambulance transportation services is eligible for payment under this chapter only if an intergovernmental transfer under this section is made by the provider or on behalf of the provider to the office.

(b) The amount of the intergovernmental transfer under subsection (a) must be an amount of at least eighty-five percent (85%) of the amount calculated for the provider under STEP SIX of section 4 of this chapter.

As added by P.L.224-2003, SEC.83.

IC 12-15-14.5-7

Appeal by Medicaid provider

Sec. 7. A Medicaid provider that receives reimbursement from the office during a state fiscal year for ambulance transportation services may appeal under IC 4-21.5 the amount determined by the office to be paid to the Medicaid provider under STEP SIX of section 4 of this chapter.

As added by P.L.224-2003, SEC.83.

IC 12-15-14.5-8

Determination of services covered

Sec. 8. The office shall determine the services to be considered ambulance transportation services under this chapter. The services must at least include the following:

- (1) Air.
- (2) Basic life support services.
- (3) Advanced life support services.

As added by P.L.224-2003, SEC.83.

IC 12-15-15

Chapter 15. Payment to Hospitals; General

IC 12-15-15-1.1 Version a

Reimbursement to hospitals for inpatient hospital services; intergovernmental transfers; calculating Medicaid shortfall

Note: This version of section effective until 7-1-2003. See also following version of this section, effective 7-1-2003.

Sec. 1.1. (a) This section applies to a hospital that is:

- (1) licensed under IC 16-21; and
- (2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

(b) For a state fiscal year ending after June 30, 2000, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals

established and operated under IC 16-22-2, IC 16-22-8, and IC 16-23.

STEP TWO: For the aggregate inpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, and IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate an amount equal to a percentage of a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles. The office shall apply in this STEP the maximum percentage permitted for the state under federal Medicaid law.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (c) in proportion to each hospital's Medicaid shortfall as defined in subsection (f).

(c) Subject to subsection (e), reimbursement for a state fiscal year

under this section consists of a single payment made after the close of each state fiscal year. Payment for a state fiscal year ending after June 30, 2001, shall be made before December 31 following the state fiscal year's end. A hospital is not eligible for a payment described in this subsection unless an intergovernmental transfer is made under subsection (d).

(d) Subject to subsection (e), a hospital may make an intergovernmental transfer under this subsection, or an intergovernmental transfer may be made on behalf of the hospital, after the close of each state fiscal year. An intergovernmental transfer under this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under STEP FIVE of subsection (b). In determining the percentage, the office shall apply the same percentage of not more than eighty-five percent (85%) to all hospitals eligible for reimbursement under STEP FIVE of subsection (b). The office shall use the intergovernmental transfer to fund payments made under this section and as otherwise provided under IC 12-15-20-2(5).

(e) A hospital making an intergovernmental transfer under subsection (d) may appeal under IC 4-21.5 the amount determined by the office to be paid the hospital under STEP FIVE of subsection (b). The periods described in subsections (c) and (d) for the hospital to make an intergovernmental transfer are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under STEP FIVE of subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP FIVE of subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based upon estimates and trends calculated by the office. For purposes of this section:

(1) a hospital's Medicaid shortfall is calculated as follows:

STEP ONE: The office shall identify the inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the inpatient hospital services identified under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate an amount equal to a percentage of a reasonable estimate of the amount that would have been paid by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles. The office shall apply in this STEP the maximum percentage permitted for the state under federal Medicaid law; and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

As added by P.L.126-1998, SEC.4. Amended by P.L.113-2000, SEC.2; P.L.283-2001, SEC.19; P.L.66-2002, SEC.5; P.L.120-2002, SEC.13; P.L.1-2003, SEC.56.

IC 12-15-15-1.1 Version b

Reimbursement to hospitals for inpatient hospital services; intergovernmental transfers; calculating Medicaid shortfall

Note: This version of section effective 7-1-2003. See also preceding version of this section, effective until 7-1-2003.

Sec. 1.1. (a) This section applies to a hospital that is:

(1) licensed under IC 16-21; and

(2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

(b) For a state fiscal year ending after June 30, 2003, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

STEP TWO: For the aggregate inpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Subject to subsection (g), from the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount equal to one hundred percent (100%) of the difference between:

(A) the total cost for the hospital's provision of inpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year; and (B) the total payment to the hospital for its provision of inpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

STEP SEVEN: Distribute an amount equal to the amount calculated under STEP SIX to the eligible hospitals established and operated under IC 16-22-2 or IC 16-23 described in subsection (c) in proportion to each hospital's Medicaid shortfall as defined in subsection (f).

(c) Subject to subsection (e), reimbursement for a state fiscal year under this section consists of payments made after the close of each state fiscal year. Payment for a state fiscal year ending after June 30, 2003, shall be made before December 31 following the state fiscal year's end. A hospital is not eligible for a payment described in this subsection unless an intergovernmental transfer is made under subsection (d).

(d) Subject to subsection (e), a hospital may make an intergovernmental transfer under this subsection, or an intergovernmental transfer may be made on behalf of the hospital, after the close of each state fiscal year. An intergovernmental transfer under this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under STEP SEVEN of subsection (b). In determining the percentage, the office shall apply the same percentage of not more than eighty-five percent (85%) to all hospitals eligible for reimbursement under STEP SEVEN of subsection (b). The office shall use the intergovernmental transfer to fund payments made under this section and as otherwise provided under IC 12-15-20-2(8).

(e) A hospital making an intergovernmental transfer under subsection (d) may appeal under IC 4-21.5 the amount determined by the office to be paid the hospital under STEP SEVEN of subsection (b). The periods described in subsections (c) and (d) for the hospital to make an intergovernmental transfer are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under STEP SEVEN of subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP SEVEN of subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based upon estimates and trends calculated by the office.

(f) For purposes of this section:

(1) the Medicaid shortfall of a hospital established and operated under IC 16-22-2 or IC 16-23 is calculated as follows:

STEP ONE: The office shall identify the inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the inpatient hospital services identified under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles; and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

(g) The actual distribution of the amount calculated under STEP FIVE of subsection (b) to a hospital established and operated under IC 16-22-8 shall be made under the terms and conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under STEP FIVE of subsection (b) is not a condition precedent to the tender of payments to hospitals under STEP SEVEN of subsection (b).

As added by P.L.126-1998, SEC.4. Amended by P.L.113-2000, SEC.2; P.L.283-2001, SEC.19; P.L.66-2002, SEC.5; P.L.120-2002, SEC.13; P.L.1-2003, SEC.56; P.L.255-2003, SEC.16.

IC 12-15-15.1.3

Reimbursement to hospitals for outpatient hospital services; intergovernmental transfers; calculating Medicaid shortfall

Sec. 1.3. (a) This section applies to a hospital that is:

(1) licensed under IC 16-21; and

(2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

(b) For a state fiscal year ending after June 30, 2003, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

STEP TWO: For the aggregate outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office under Medicare payment principles for the outpatient hospital services described in STEP ONE.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Subject to subsection (g), from the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount equal to one hundred percent (100%) of the difference between:

(A) the total cost for the hospital's provision of outpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year; and (B) the total payment to the hospital for its provision of outpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

STEP SEVEN: Distribute an amount equal to the amount calculated under STEP SIX to the eligible hospitals established and operated under IC 16-22-2 or IC 16-23 described in subsection (c) in proportion to each hospital's Medicaid shortfall as defined in subsection (f).

(c) Subject to subsection (e), the reimbursement for a state fiscal year under this section consists of payments made before December 31 following the end of the state fiscal year. A hospital is not eligible for a payment described in this subsection unless an intergovernmental transfer is made under subsection (d).

(d) Subject to subsection (e), a hospital may make an intergovernmental transfer under this subsection, or an intergovernmental transfer may be made on behalf of the hospital, after the close of each state fiscal year. An intergovernmental transfer under this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under STEP SEVEN of subsection (b). In determining the percentage, the office shall apply the same percentage of not more than eighty-five percent (85%) to all hospitals eligible for reimbursement

under STEP SEVEN of subsection (b). The office shall use the intergovernmental transfer to fund payments made under this section and as otherwise provided under IC 12-15-20-2(8).

(e) A hospital making an intergovernmental transfer under subsection (d) may appeal under IC 4-21.5 the amount determined by the office to be paid by the hospital under STEP SEVEN of subsection (b). The periods described in subsections (c) and (d) for the hospital to make an intergovernmental transfer are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under STEP SEVEN of subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP SEVEN of subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals must be made. A partial distribution may be calculated by the office based upon estimates and trends.

(f) For purposes of this section:

(1) the Medicaid shortfall of a hospital established and operated under IC 16-22-2 or IC 16-23 is calculated as follows:

STEP ONE: The office shall identify the outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the outpatient hospital services identified under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid by the office for the outpatient hospital services described in STEP ONE under Medicare payment principles; and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

(g) The actual distribution of the amount calculated under STEP FIVE of subsection (b) to a hospital established and operated under IC 16-22-8 shall be made under the terms and conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under STEP FIVE of subsection (b) is not a condition precedent to the tender of payments to hospitals under STEP SEVEN of subsection (b).

As added by P.L.120-2002, SEC.14. Amended by P.L.255-2003, SEC.17.

IC 12-15-15-1.5

Additional reimbursements to certain hospitals; appeal of amount of distribution

Sec. 1.5. (a) This section applies to a hospital that: (1) is licensed under IC 16-21; (2) is not a unit of state or local government; and

(3) is not owned or operated by a unit of state or local government.

(b) For a state fiscal year ending after June 30, 2003, in addition to reimbursement received under section 1 of this chapter, a hospital eligible under this section is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the total inpatient hospital services and the total outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospitals described

in subsection (a).

STEP TWO: For the total inpatient hospital services and the total outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals described in subsection (a), excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services and the outpatient hospital services identified in STEP ONE under Medicare payment principles.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (a) as follows:

(A) Subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the non-federal share of such payment, the first ten million dollars (\$10,000,000) of the amount calculated under STEP FOUR for a state fiscal year shall be paid to a hospital described in subsection (a) that has more than seventy thousand

(70,000) Medicaid inpatient days.

(B) Following the payment to the hospital under clause (A) and subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the non-federal share of such payments, the remaining amount calculated under STEP FOUR for a state fiscal year shall be paid to all hospitals described in subsection (a). The payments shall be made on a pro rata basis based on the hospitals' Medicaid inpatient days or other payment methodology approved by the Centers for Medicare and Medicaid Services.

(C) Subject to IC 12-15-20.7, in the event the entirety of the amount calculated under STEP FOUR is not distributed following the payments made under clauses (A) and (B), the remaining amount may be paid to hospitals described in subsection (a) that are eligible under this clause. A hospital is eligible for a payment under this clause only if the non-federal share of the hospital's payment is provided by or on behalf of the hospital. The remaining amount shall be paid to those eligible hospitals on a pro rata basis in relation to all hospitals eligible under this clause based on the hospitals' Medicaid inpatient days or other payment methodology approved by the Centers for Medicare and Medicaid Services.

(D) For purposes of the clauses (A), (B) and (C), a hospital's Medicaid inpatient days are based on the Medicaid inpatient days allowed for the hospital by the office for purposes of the office's most recent determination of eligibility for the

Medicaid disproportionate payment program under IC 12-15-16.

(c) Reimbursement for a state fiscal year under this section consists of payments made after the close of each state fiscal year. Payment for a state fiscal year ending after June 30, 2003, shall be made before December 31 following the end of the state fiscal year.

(d) A hospital described in subsection (a) may appeal under IC 4-21.5 the amount determined by the office to be paid to the hospital under STEP FIVE of subsection (b). The distribution to other hospitals under STEP FIVE of subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP FIVE of subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based on estimates and trends calculated by the office.

As added by P.L.255-2003, SEC.18.

IC 12-15-15-4.5

Payment for HIV test; limitation

Sec. 4.5. Payment to a hospital for a test required under IC 16-41-6-4 must be in an amount equal to the hospital's actual cost of performing the test and may not reduce or replace the reimbursement of other services that are provided to the patient under the state Medicaid program. The total cost to the state may not be more than twenty-four thousand dollars (\$24,000) in a state fiscal year.

As added by P.L.237-2003, SEC.2.

IC 12-15-15-9 Version a

Amount of payments; policies; transfers of funds

Note: This version of section effective until 7-1-2003. See also following version of this section, effective 7-1-2003.

Sec. 9. (a) Subject to subsections (e), (f), (g), and (h), for each state fiscal year ending June 30, 1998, June 30, 1999, June 30, 2000, June 30, 2001, June 30, 2002, June 30, 2003, and June 30, 2004, a hospital is entitled to a payment under this section.

(b) Subject to subsections (e), (f), (g), and (h), total payments to hospitals under this section for a state fiscal year shall be equal to all amounts transferred from the state hospital care for the indigent fund established under IC 12-16 or IC 12-16.1 for Medicaid current obligations during the state fiscal year, including amounts of the fund appropriated for Medicaid current obligations.

(c) The payment due to a hospital under this section must be based on a policy developed by the office. The policy:

(1) is not required to provide for equal payments to all hospitals;

(2) must attempt, to the extent practicable as determined by the office, to establish a payment rate that minimizes the difference between the aggregate amount paid under this section to all hospitals in a county for a state fiscal year and the amount of the county's hospital care for the indigent property tax levy for that state fiscal year; and

(3) must provide that no hospital will receive a payment under this section less than the amount the hospital received under section 8 of this chapter for the state fiscal year ending June 30, 1997.

(d) Following the transfer of funds under subsection (b), an amount equal to the amount determined in the following STEPS shall be deposited in the Medicaid indigent care trust fund under IC 12-15-20-2(2) and used to fund a portion of the state's share of the disproportionate share payments to providers for the state fiscal year:

STEP ONE: Determine the difference between:

(A) the amount transferred from the state hospital care for the indigent fund under subsection (b); and

(B) thirty-five million dollars (\$35,000,000).

STEP TWO: Multiply the amount determined under STEP ONE by the federal medical assistance percentage for the state fiscal year.

(e) If funds are transferred under IC 12-16-14.1-2(e), those funds must be used for the state's share of funding for payments to hospitals under this subsection. A payment under this subsection shall be made to all hospitals that received a payment under this section for the state fiscal year beginning July 1, 2003, and ending June 30, 2004. Payments under this subsection shall be in proportion to each hospital's payment under this section for the state fiscal year beginning July 1, 2003, and ending June 30, 2004.

(f) If the office does not implement an uninsured parents program as provided for in IC 12-17.7 before July 1, 2005, and funds are transferred under IC 12-16-14.1-3, a hospital is entitled to a payment under this section for the state fiscal year beginning on July 1, 2004. Payments under this subsection shall be made after July 1, 2005, but before December 31, 2005.

(g) If the office does not implement an uninsured parents program as provided for in IC 12-17.7 before July 1, 2005, a hospital is entitled to a payment under this section for state fiscal years ending after June 30, 2005.

(h) If funds are transferred under IC 12-17.7-9-2, those funds shall be used for the state's share of payments to hospitals under this subsection. A payment under this subsection shall be made to all hospitals that received a payment under this section for the state fiscal year beginning July 1, 2003, and ending June 30, 2004. Payments under this subsection shall be in proportion to each hospital's payment under this section for the state fiscal year beginning July 1, 2003, and ending June 30, 2004.

As added by P.L.126-1998, SEC.5. Amended by P.L.113-2000, SEC.3; P.L.283-2001, SEC.20; P.L.1-2002, SEC.52; P.L.120-2002, SEC.15; P.L.1-2003, SEC.57.

IC 12-15-15-9 Version b

Attribution of payable claim to county; amount of payment on payable claims; conditions on payments; funds available for payments

Note: This version of section effective 7-1-2003. See also preceding version of this section, effective until 7-1-2003.

Sec. 9. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, a hospital licensed under IC 16-21-2 that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5 is entitled to a payment under this section.

(c) For a state fiscal year, subject to section 9.6 of this chapter, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP SIX of the following STEPS:

STEP ONE: Identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 during the state fiscal year; and

(B) the county to which each payable claim is attributed.

STEP TWO: For each county identified in STEP ONE, identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 attributed to the county during the state fiscal year; and

(B) the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP THREE: For each county identified in STEP ONE, identify the amount of county funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP FOUR: For each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, calculate the hospital's percentage share of the county's funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b). Each hospital's percentage share is based on the total amount of the hospital's payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year, calculated as a percentage of the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP FIVE: Subject to subsection (j), for each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, multiply the hospital's percentage share calculated under STEP FOUR by the amount of the county's funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP SIX: Determine the sum of all amounts calculated under STEP FIVE for each hospital identified in STEP ONE with respect to each county identified in STEP ONE.

(d) A hospital's payment under subsection (c) is in the form of a Medicaid add-on payment. The amount of a hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e). The office shall make the payments under subsection (c) before December 15 that next succeeds the end of the state fiscal year.

(e) The non-federal share of a payment to a hospital under subsection (c) is funded from the funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) of each county to which a payable claim under IC 12-16-7.5 submitted to the division during the state fiscal year by the hospital is attributed.

(f) The amount of a county's transferred funds available to be used to fund the non-federal share of a payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds of the county transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) that the total amount of the hospital's payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year bears to the total amount of all hospital payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year.

(g) Any county's funds identified in subsection (f) that remain after the non-federal share of a hospital's payment has been funded are available to serve as the non-federal share of a payment to a hospital under section 9.5 of this chapter.

(h) For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

(i) For purposes of this section:

(1) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(2) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

(j) The amount calculated under STEP FIVE of subsection (c) for a hospital with respect to a county may not exceed the total amount of the hospital's payable claims attributed to the county during the state fiscal year.

As added by P.L.126-1998, SEC.5. Amended by P.L.113-2000, SEC.3; P.L.283-2001, SEC.20; P.L.1-2002, SEC.52; P.L.120-2002, SEC.15; P.L.1-2003, SEC.57; P.L.255-2003, SEC.19.

IC 12-15-15-9.5

Attribution of payable claim to county; funds available for payments; limitation on payments

Sec. 9.5. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the

indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and;

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, a hospital licensed under IC 16-21-2:

(1) that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5; and

(2) whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year; is entitled to a payment under this section.

(c) For a state fiscal year, subject to section 9.6 of this chapter, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP EIGHT of the following STEPS:

STEP ONE: Identify each county whose transfer of funds to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) for the state fiscal year was less than the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP TWO: For each county identified in STEP ONE, calculate the difference between the amount of funds of the county transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) and the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP THREE: Calculate the sum of the amounts calculated for the counties under STEP TWO.

STEP FOUR: Identify each hospital whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP FIVE: Calculate for each hospital identified in STEP FOUR the difference between the hospital's payment under section 9(c) of this chapter and the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP SIX: Calculate the sum of the amounts calculated for each of the hospitals under STEP FIVE.

STEP SEVEN: For each hospital identified in STEP FOUR, calculate the hospital's percentage share of the amount calculated under STEP SIX. Each hospital's percentage share is based on the amount calculated for the hospital under STEP FIVE calculated as a percentage of the sum calculated under STEP SIX.

STEP EIGHT: For each hospital identified in STEP FOUR, multiply the hospital's percentage share calculated under STEP SEVEN by the sum calculated under STEP THREE. The amount calculated under this STEP for a hospital may not exceed the amount by which the hospital's total payable claims under IC 12-16-7.5 submitted during the state fiscal year exceeded the amount of the hospital's payment under section 9(c) of this chapter.

(d) A hospital's payment under subsection (c) is in the form of a Medicaid add-on payment. The amount of the hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e). The office shall make the payments under subsection (c) before December 15 that next succeeds the end of the state fiscal year.

(e) The non-federal share of a payment to a hospital under subsection (c) is derived from funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) and not expended under section 9 of this chapter. To the extent possible, the funds shall be derived on a proportional basis from the funds transferred by each county identified in subsection (c), STEP ONE:

(1) to which at least one (1) payable claim submitted by the hospital to the division during the state fiscal year is attributed; and

(2) whose funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) were not completely expended under section 9 of this chapter.

The amount available to be derived from the remaining funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) to serve as the non-federal share of the payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds transferred by all the counties identified in subsection (c), STEP ONE, that the amount calculated for the hospital under subsection (c), STEP FIVE, bears to the amount calculated under subsection (c), STEP SIX.

(f) Except as provided in subsection (g), the office may not make a payment under this section until the

payments due under section 9 of this chapter for the state fiscal year have been made.

(g) If a hospital appeals a decision by the office regarding the hospital's payment under section 9 of this chapter, the office may make payments under this section before all payments due under section 9 of this chapter are made if:

(1) a delay in one (1) or more payments under section 9 of this chapter resulted from the appeal; and
(2) the office determines that making payments under this section while the appeal is pending will not unreasonably affect the interests of hospitals eligible for a payment under this section.

(h) Any funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) remaining after payments are made under this section shall be used as provided in IC 12-15-20-2(8)(D).

(i) For purposes of this section:

(1) "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b);

(2) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(3) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

As added by P.L.255-2003, SEC.20.

IC 12-15-15-9.6

Limitation on total amount of payments

Sec. 9.6. The total amount of payments to hospitals under sections 9 and 9.5 of this chapter may not exceed the amount transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

As added by P.L.255-2003, SEC.21.

IC 12-15-20

Chapter 20. Indigent Care Trust Fund

IC 12-15-20-2

Establishment of fund; payments to be made from fund

Sec. 2. The Medicaid indigent care trust fund is established to pay the non-federal share of the following:

(1) Enhanced disproportionate share payments to providers under IC 12-15-19-1.

(2) Subject to subdivision (8), disproportionate share payments to providers under IC 12-15-19-2.1.

(3) Medicaid payments for pregnant women described in IC 12-15-2-13 and infants and children described in IC 12-15-2-14.

(4) Municipal disproportionate share payments to providers under IC 12-15-19-8.

(5) Payments to hospitals under IC 12-15-15-9.

(6) Payments to hospitals under IC 12-15-15-9.5.

(7) Payments, funding, and transfers as otherwise provided in clauses (8)(D) and (8)(F).

(8) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund, the following apply:

(A) The entirety of the intergovernmental transfers deposited into the Medicaid indigent care trust fund for state fiscal years ending on or before June 30, 2000, shall be used to fund the state's share of the disproportionate share payments to providers under IC 12-15-19-2.1.

(B) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year ending June 30, 2001, an amount equal to one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998, and ending June 30, 1999, shall be used to fund the state's share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, for the state fiscal year shall be used to fund the state's share of additional Medicaid payments to hospitals licensed under IC 16-21 pursuant to a methodology adopted by the office.

(C) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund, for state fiscal years beginning July 1, 2001, and July 1, 2002, an amount equal to:

(i) one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998; minus

(ii) an amount equal to the amount deposited into the Medicaid indigent care trust fund under IC 12-15-15-9(d) for the state fiscal years beginning July 1, 2001, and July 1, 2002;

shall be used to fund the state's share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, must be used to fund the state's share of additional Medicaid payments to hospitals licensed under IC 16-21 pursuant to a methodology adopted by the office.

(D) Of the intergovernmental transfers, which shall include amounts transferred under IC 12-16-7.5-4.5(b), STEP FOUR, deposited into the Medicaid indigent care trust fund for state fiscal years ending after June 30, 2003, an amount equal to:

(i) one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998, and ending June 30, 1999; minus

(ii) an amount equal to the amount deposited into the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) for the state fiscal year ending after June 30, 2003;

shall be used to fund the non-federal share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, for the state fiscal years shall be used to fund, in descending order of priority, the non-federal share of payments to hospitals under IC 12-15-15-9, the non-federal share of payments to hospitals under IC 12-15-15-9.5, the amount to be transferred under clause (F), and the non-federal share of payments under clauses (A) and (B) of STEP FIVE of IC 12-15-15-1.5(b).

(E) The total amount of intergovernmental transfers used to fund the non-federal share of payments to hospitals under IC 12-15-15-9 and IC 12-15-15-9.5 shall not exceed the amount calculated under STEP TWO of the following formula:

STEP ONE: Calculate the total amount of funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP TWO: Multiply the state Medicaid medical assistance percentage for the state fiscal year for which the payments under IC 12-15-15-9 and IC 12-15-15-9.5 are to be made by the amount calculated under STEP ONE.

(F) As provided in clause (D), for each fiscal year ending after June 30, 2003, an amount equal to the amount calculated under STEP THREE of the following formula shall be transferred to the office:

STEP ONE: Calculate the product of thirty-five million dollars (\$35,000,000) multiplied by the federal medical assistance percentage for federal fiscal year 2003.

STEP TWO: Calculate the sum of the amounts, if any, reasonably estimated by the office to be transferred or otherwise made available to the office for the state fiscal year, and the amounts, if any, actually transferred or otherwise made available to the office for the state fiscal year, under arrangements whereby the office and a hospital licensed under IC 16-21-2 agree that an amount transferred or otherwise made available to the office by the hospital or on behalf of the hospital shall be included in the calculation under this STEP.

STEP THREE: Calculate the amount by which the product calculated under STEP ONE exceeds the sum calculated under STEP TWO.

As added by P.L.2-1992, SEC.9. Amended by P.L.27-1992, SEC.23; P.L.24-1997, SEC.50; P.L.126-1998, SEC.15; P.L.273-1999, SEC.174; P.L.113-2000, SEC.19; P.L.283-2001, SEC.26; P.L.1-2002, SEC.53; P.L.120-2002, SEC.17; P.L.255-2003, SEC.22.

IC 12-15-23

Chapter 23. Improper Payments

IC 12-15-23-6

Determination by Medicaid fraud control unit; certification of facts to prosecuting attorney; reference of matter to attorney general

Sec. 6. (a) If the state Medicaid fraud control unit determines that an action based on the state Medicaid fraud control unit's investigations under the unit's authority under IC 4-6-10-1.5 is meritorious, the unit shall certify the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed.

(b) The state Medicaid fraud control unit shall assist the prosecuting attorney in prosecuting an action under this section.

(c) A prosecuting attorney to whom facts concerning alleged Medicaid fraud are certified under subsection (a) may refer the matter to the attorney general.

(d) If a matter has been referred to the attorney general under subsection (c), the attorney general may:

(1) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and

(2) prosecute the alleged offense.

As added by P.L.2-1992, SEC.9. Amended by P.L.10-1994, SEC.5; P.L.73-2003, SEC.3.

IC 12-15-23-8

Civil action; finding in favor of attorney general; treble damages; civil penalties; reimbursement of investigation costs

Sec. 8. (a) Subject to subsection (b), if the court finds in favor of the attorney general in a civil action brought by the attorney general under section 7 of this chapter, the court may do the following:

(1) Award damages against the provider of not more than three (3) times the amount paid to the provider in excess of the amount that was legally due.

(2) Assess a civil penalty against the provider of not more than five hundred dollars (\$500) for each instance of overpayment found by the court.

(3) Order the provider to reimburse the attorney general for the reasonable costs of the attorney general's investigation and enforcement action.

(4) Take any combination of the actions described in subdivisions (1), (2), and (3).

(b) The court may only take action under subsection (a)(2) and (a)(3) if the provider knew or had reason to know that an item or a service was not provided as claimed.

As added by P.L.2-1992, SEC.9. Amended by P.L.73-2003, SEC.4.

IC 12-15-32

Chapter 32. Community Residential Facilities for the Developmentally Disabled

IC 12-15-32-6.5

Payment calculation for federal SSI recipient; exemption from income eligibility consideration

Sec. 6.5. (a) If a resident of a facility:

(1) is a recipient of assistance under the federal Supplemental Security Income (SSI) program; and

(2) receives an income that is less than the amount described in section 6 of this chapter;

the office shall pay to the individual an amount equal to the difference between the amount of the monthly personal allowance described in section 6 of this chapter and the amount of income, including assistance under the federal Supplemental Security Income (SSI) program received by the individual.

(b) Money paid to an individual under subsection (a) is exempt from income eligibility consideration.

As added by P.L.294-2001, SEC.6. Amended by P.L.26-2003, SEC.

IC 12-15-35

Chapter 35. Drug Utilization Review

IC 12-15-35

Chapter 35. Drug Utilization Review

IC 12-15-35-1

"Appropriate and medically necessary" defined

Sec. 1. As used in this chapter, "appropriate and medically necessary" means drug prescribing, drug dispensing, and patient medication usage in conformity with the criteria and standards developed under this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to the drug utilization review board created under this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-3**"Compendia" defined**

Sec. 3. As used in this chapter, "compendia" means those resources widely accepted by the medical profession in the efficacious use of drugs, including the following sources:

- (1) The American Hospital Formulary Services Drug Information.
- (2) The U.S. Pharmacopeia-Drug Information.
- (3) The American Medical Association Drug Evaluations.
- (4) The peer-reviewed medical literature.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-4**"Counseling" defined**

Sec. 4. As used in this chapter, "counseling" means the activities conducted by a pharmacist to inform Medicaid recipients about the proper use of drugs as required by the board under this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-4.5**"Covered outpatient drug" defined**

Sec. 4.5. As used in this chapter, "covered outpatient drug" has the meaning set forth in 42 U.S.C. 1396r-8(k)(2).

As added by P.L.107-2002, SEC.12.

IC 12-15-35-5**"Criteria" defined**

Sec. 5. As used in this chapter, "criteria" means the predetermined and explicitly accepted elements that are used to measure drug use on an ongoing basis to determine if the use is appropriate, medically necessary, and not likely to result in adverse medical outcomes.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-6**"Drug-disease contraindication" defined**

Sec. 6. As used in this chapter, "drug-disease contraindication" means an occurrence in which the therapeutic effect of a drug is adversely altered by the presence of another disease condition.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-7**"Drug-drug interaction" defined**

Sec. 7. As used in this chapter, "drug-drug interaction" means an occurrence in which at least two (2) drugs taken by a recipient leads to clinically significant toxicity that:

- (1) is characteristic of one (1) or any of the drugs present; or
- (2) leads to the interference with the effectiveness of one (1) or any of the drugs.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-8**"Drug utilization review" and "DUR" defined**

Sec. 8. As used in this chapter, "drug utilization review" or "DUR" means the program designed to measure and assess on a retrospective and a prospective basis the proper use of outpatient drugs in the Medicaid program.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-9**"Intervention" defined**

Sec. 9. As used in this chapter, "intervention" means an action taken by the board with a prescriber or pharmacist to inform about or to influence prescribing or dispensing practices or utilization of drugs.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-10**"Overutilization or underutilization" defined**

Sec. 10. As used in this chapter, "overutilization or underutilization" means the use of a drug in such quantities where the desired therapeutic goal is not achieved.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-11**"Pharmacist" defined**

Sec. 11. As used in this chapter, "pharmacist" means an individual who is licensed as a pharmacist in

Indiana under IC 25-26.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-12

"Physician" defined

Sec. 12. As used in this chapter, "physician" means an individual who is licensed to practice medicine in Indiana under IC 25-22.5.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-13

"Prospective DUR" defined

Sec. 13. As used in this chapter, "prospective DUR" means the part of the drug utilization review program that:

- (1) is to occur before the drug is dispensed;
- (2) is designed to screen for potential drug therapy problems based on explicit and predetermined criteria and standards that are developed on an ongoing basis with professional input; and
- (3) is to provide for the counseling of recipients about the proper use of drugs.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-14

"Retrospective DUR" defined

Sec. 14. As used in this chapter, "retrospective DUR" means the part of the drug utilization review program that assesses or measures drug use based on an historical review of drug use data against predetermined and explicit criteria and standards that are developed on an ongoing basis with professional input.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-15

"Standards" defined

Sec. 15. As used in this chapter, "standards" means the acceptable range of deviation from the criteria that reflects local medical practice and that is tested on the Medicaid recipient database.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-16

"SURS" defined

Sec. 16. As used in this chapter, "SURS" refers to the surveillance utilization review system of the Medicaid program.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-17

"Therapeutic appropriateness" defined

Sec. 17. As used in this chapter, "therapeutic appropriateness" means drug prescribing based on rational drug therapy that is consistent with the criteria and standards developed under this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-17.5

"Therapeutic classification" or "therapeutic category" defined

Sec. 17.5. As used in this chapter, "therapeutic classification" or "therapeutic category" means a group of pharmacologic agents primarily characterized by a significant similarity of the biochemical or physiological mechanism by which these agents result in the intended clinical outcome.

As added by P.L.107-2002, SEC.13.

IC 12-15-35-18

"Therapeutic duplication" defined

Sec. 18. As used in this chapter, "therapeutic duplication" means the prescribing and dispensing of:

- (1) the same drug; or
 - (2) at least two (2) drugs from the same therapeutic class;
- where overlapping periods of drug administration are involved and where such prescribing or dispensing is not medically indicated.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-18.5

Application of chapter

Sec. 18.5. This chapter applies to any contractor or vendor of the state responsible for providing or

managing any part of the Medicaid outpatient drug program.

As added by P.L.76-1994, SEC.2.

IC 12-15-35-18.7

Formulary requirements

Sec. 18.7. A formulary established by a Medicaid managed care organization is subject to sections 46 and 47 of this chapter.

As added by P.L.231-1999, SEC.2.

IC 12-15-35-19

Drug utilization review board; establishment

Sec. 19. The drug utilization review board is established.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-20

Membership of board

Sec. 20. The board is composed of the following:

(1) Four (4) individuals licensed and actively engaged in the practice of medicine or osteopathic medicine in Indiana under IC 25-22.5.

(2) Four (4) individuals licensed under IC 25-26 and actively engaged in the practice of pharmacy in Indiana.

(3) One (1) individual with expertise in therapeutic pharmacology who is neither a physician or a pharmacist.

(4) A representative of the office who shall serve as an ex-officio nonvoting member of the board.

(5) One (1) individual who:

(A) is employed by a health maintenance organization that has a pharmacy benefit; and

(B) has expertise in formulary development and pharmacy benefit administration.

The individual appointed under this subdivision may not be employed by a health maintenance organization that is under

contract or subcontract with the state to provide services to Medicaid recipients under this article.

(6) One (1) individual who is a health economist.

As added by P.L.75-1992, SEC.19. Amended by P.L.231-1999, SEC.3.

IC 12-15-35-20.1

Conflicts of interest

Sec. 20.1. (a) Each board member and each therapeutics committee member shall fully disclose any potential conflicts of interest, financial or otherwise, relating to an issue that comes before the board or committee for recommendation or other action.

(b) A board member or therapeutics committee member may not vote on a recommendation or other action if the member or the member's employer has a conflict of interest, financial or otherwise, in the outcome of the vote.

(c) A board member or therapeutics committee member who may not vote on a recommendation or other action under subsection (b) may still participate in any discussions regarding the recommendation or other action.

As added by P.L.231-1999, SEC.4. Amended by P.L.107-2002, SEC.14.

IC 12-15-35-20.5

Therapeutics committee established; members; limitations; terms; votes; meetings

Sec. 20.5. (a) The therapeutics committee is established as a subcommittee of the board.

(b) The chairperson of the board elected under section 25 of this chapter shall, with the approval of a majority of a quorum of the board, appoint the members of the therapeutics committee.

(c) The therapeutics committee is composed of the following members:

(1) Five (5) physicians licensed under IC 25-22.5, including:

(A) one (1) physician with expertise in the area of family practice;

(B) one (1) physician with expertise in the area of pediatrics;

(C) one (1) physician with expertise in the area of geriatrics;

(D) one (1) physician with expertise in psychiatric medicine; and

(E) one (1) physician with expertise in the area of internal medicine and who specializes in the treatment of diabetes.

(2) Two (2) pharmacists who are licensed under IC 25-26 and who have a doctor of pharmacy degree or an equivalent degree.

- (d) Not more than three (3) of the individuals appointed by the chairperson under subsection (b) to the therapeutics committee may also be members of the board.
- (e) At least three (3) of the members described in subsection (c)(1) and appointed under subsection (b) must have at least three (3) years of recent experience in prescription drug formulary management, including therapeutic category review.
- (f) A member of the therapeutics committee may not:
- (1) be employed by; or
 - (2) contract with;
- the state or a pharmaceutical manufacturer or labeler. However, this subsection does not apply to a physician or a pharmacist whose only contract with the state is a Medicaid provider agreement under IC 12-15-11 or a provider agreement under the children's health insurance program under IC 12-17.6.
- (g) The term of a member of the therapeutics committee is three (3) years. A member may be reappointed to the committee upon the completion of the member's term.
- (h) The expenses of the therapeutics committee shall be paid by the office.
- (i) Each member of the therapeutics committee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
- (j) The affirmative votes of a majority of a quorum of the therapeutics committee are required for the committee to take action on any measure. A quorum of the therapeutics committee consists of four (4) members.
- (k) The therapeutics committee shall meet:
- (1) upon the call of the chairperson of the therapeutics committee; and
 - (2) at least quarterly.
- (l) The chairperson and the vice chairperson of the therapeutics committee:
- (1) each serve for a term of one (1) year; and
 - (2) must be elected from the therapeutics committee's membership at the therapeutics committee's first meeting each calendar year.
- (m) A meeting held by the therapeutics committee must be open to the public in accordance with IC 5-14-1.5. However, the therapeutics committee may meet in executive session only for the purpose of reviewing confidential or proprietary information.

As added by P.L.107-2002, SEC.15.

IC 12-15-35-21

Board; appointment; term

Sec. 21. (a) The members of the board shall be appointed by the governor and serve a term of three (3) years.

(b) The governor shall fill a vacancy on the board by appointing a new member to serve the remainder of the unexpired term.

(c) The governor may remove a member for cause.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-22

Qualifications of board members

Sec. 22. Board members must have expertise in one (1) or more of the following:

- (1) Clinically appropriate prescribing of outpatient drugs.
- (2) Clinically appropriate dispensing and monitoring of outpatient drugs.
- (3) Drug utilization review, evaluation, and intervention.
- (4) Medical quality assurance.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-23

Physician appointments; geographic balance

Sec. 23. In making the physician appointments, the governor shall provide for geographic balance.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-24

Reappointment of members

Sec. 24. An individual appointed to the board may be reappointed upon the completion of the individual's

term.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-25

Chairman; compensation; expenses

Sec. 25. (a) The board shall annually elect a chairman from the members of the board.

(b) The chairman may be re-elected to serve consecutive terms as chairman.

(c) A member of the board who is not a state employee is entitled to the minimum salary per diem as provided by IC 4-10-11-2.1(b). Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and the budget agency.

(d) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-26

Additional staff

Sec. 26. (a) The secretary shall provide additional staff to the board.

(b) The secretary shall provide staff for the therapeutics committee.

As added by P.L.75-1992, SEC.19. Amended by P.L.291-2001, SEC.162; P.L.107-2002, SEC.16.

IC 12-15-35-27

Retrospective and prospective DUR program responsibility

Sec. 27. The board is responsible for the oversight of the retrospective and prospective DUR program.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-28 Version a

Duties of board

Note: This version of section amended by P.L.184-2003, SEC.7. See also following version of this section amended by P.L.193-2003, SEC.2.

Sec. 28. (a) The board has the following duties:

(1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.

(2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.

(3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.

(4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.

(5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of Health and Human Services and to the Indiana legislative council by December 1 of each year.

(6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies, including the following:

(A) The Indiana board of pharmacy.

(B) The medical licensing board of Indiana.

(C) The SURS staff.

(7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.

(8) The publication and dissemination of educational information to physicians and pharmacists regarding the board

and the DUR program, including information on the following:

- (A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.
- (B) Potential or actual severe or adverse reactions to drugs.
- (C) Therapeutic appropriateness.
- (D) Overutilization or underutilization.
- (E) Appropriate use of generic drugs.
- (F) Therapeutic duplication.
- (G) Drug-disease contraindications.
- (H) Drug-drug interactions.
- (I) Incorrect drug dosage and duration of drug treatment.
- (J) Drug allergy interactions.
- (K) Clinical abuse and misuse.
- (9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.
- (10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.
- (11) The research, development, and approval of a preferred drug list for:
 - (A) Medicaid's fee for service program;
 - (B) Medicaid's primary care case management program; and
 - (C) the primary care case management component of the children's health insurance program under IC 12-17.6;in consultation with the therapeutics committee.
- (12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.
- (13) The preparation and submission of a report concerning the preferred drug list at least two (2) times per year to the select joint commission on Medicaid oversight established by IC 2-5-26-3.
- (14) The collection of data reflecting prescribing patterns related to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.
- (b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also consider expert testimony in the development of a preferred drug list.
- (c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:
 - (1) Use literature abstracting technology.
 - (2) Use commonly accepted guidance principles of disease management.
 - (3) Develop therapeutic classifications for the preferred drug list.
 - (4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.
 - (5) Include in any cost effectiveness considerations the cost implications of other components of the state's Medicaid program and other state funded programs.
- (d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.
- (e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date on which the manufacturer notifies the board in writing of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization may not be automatically required for a single source drug that is newly approved by the federal Food and Drug Administration, and that is:
 - (1) in a therapeutic classification:
 - (A) that has not been reviewed by the board; and
 - (B) for which prior authorization is not required; or
 - (2) the sole drug in a new therapeutic classification that has not been reviewed by the board.

- (f) The board may not exclude a drug from the preferred drug list based solely on price.
- (g) The following requirements apply to a preferred drug list developed under subsection (a)(11):
 - (1) Except as provided by IC 12-15-35.5-3(b) and IC 12-15-35.5-3(c), the office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:
 - (A) To override a prospective drug utilization review alert.
 - (B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.
 - (C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.
 - (D) To permit implementation of a disease management program.
 - (E) To implement other initiatives permitted by state or federal law.
 - (2) All drugs described in IC 12-15-35.5-3(b) must be included on the preferred drug list.
 - (3) The office may add a drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.
 - (4) The board may add a drug that has been approved by the federal Food and Drug Administration to the preferred drug list.
- (h) At least two (2) times each year, the board shall provide a report to the select joint commission on Medicaid oversight established by IC 2-5-26-3. The report must contain the following information:
 - (1) The cost of administering the preferred drug list.
 - (2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred drug list.
 - (3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.
 - (4) The number of times prior authorization was requested, and the number of times prior authorization was:
 - (A) approved; and
 - (B) disapproved.
- (i) The board shall provide the first report required under subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.

As added by P.L.75-1992, SEC.19. Amended by P.L.76-1994, SEC.3; P.L.107-2002, SEC.17; P.L.184-2003, SEC.7.

IC 12-15-35-28 Version b

Duties of board

Note: This version of section amended by P.L.193-2003, SEC.2. See also preceding version of this section amended by P.L.184-2003, SEC.7.

Sec. 28. (a) The board has the following duties:

- (1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.
- (2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.
- (3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.
- (4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.
- (5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of Health and Human Services and to the Indiana legislative council by December 1 of each year.
- (6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies, including the following:
 - (A) The Indiana board of pharmacy.
 - (B) The medical licensing board of Indiana.
 - (C) The SURS staff.

- (7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.
- (8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:
 - (A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.
 - (B) Potential or actual severe or adverse reactions to drugs.
 - (C) Therapeutic appropriateness.
 - (D) Overutilization or underutilization.
 - (E) Appropriate use of generic drugs.
 - (F) Therapeutic duplication.
 - (G) Drug-disease contraindications.
 - (H) Drug-drug interactions.
 - (I) Incorrect drug dosage and duration of drug treatment.
 - (J) Drug allergy interactions.
 - (K) Clinical abuse and misuse.
- (9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.
- (10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.
- (11) The research, development, and approval of a preferred drug list for:
 - (A) Medicaid's fee for service program;
 - (B) Medicaid's primary care case management program; and
 - (C) the primary care case management component of the children's health insurance program under IC 12-17.6;
 in consultation with the therapeutics committee.
- (12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.
- (13) The preparation and submission of a report concerning the preferred drug list at least two (2) times per year to the select joint commission on Medicaid oversight established by IC 2-5-26-3.
- (14) The collection of data reflecting prescribing patterns related to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.
- (15) Advising the Indiana comprehensive health insurance association established by IC 27-8-10-2.1 concerning implementation of chronic disease management and pharmaceutical management programs under IC 27-8-10-3.5.
 - (b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also consider expert testimony in the development of a preferred drug list.
 - (c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:
 - (1) Use literature abstracting technology.
 - (2) Use commonly accepted guidance principles of disease management.
 - (3) Develop therapeutic classifications for the preferred drug list.
 - (4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.
 - (5) Include in any cost effectiveness considerations the cost implications of other components of the state's Medicaid program and other state funded programs.
 - (d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.
 - (e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization may not be automatically required for a single source drug that is newly approved by the federal Food and Drug Administration and that is:

- (1) in a therapeutic classification:
 - (A) that has not been reviewed by the board; and
 - (B) for which prior authorization is not required; or
- (2) the sole drug in a new therapeutic classification that has not been reviewed by the board.
- (f) The board may not exclude a drug from the preferred drug list based solely on price.
- (g) The following requirements apply to a preferred drug list developed under subsection (a)(11):
 - (1) The office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:
 - (A) To override a prospective drug utilization review alert.
 - (B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.
 - (C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.
 - (D) To permit implementation of a disease management program.
 - (E) To implement other initiatives permitted by state or federal law.
 - (2) All drugs described in IC 12-15-35.5-3(b) must be included on the preferred drug list.
 - (3) The office may add a new single source drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.
 - (4) The board may add a new single source drug that has been approved by the federal Food and Drug Administration to the preferred drug list.
 - (h) At least two (2) times each year, the board shall provide a report to the select joint commission on Medicaid oversight established by IC 2-5-26-3. The report must contain the following information:
 - (1) The cost of administering the preferred drug list.
 - (2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred drug list.
 - (3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.
 - (4) The number of times prior authorization was requested, and the number of times prior authorization was:
 - (A) approved; and
 - (B) disapproved.
 - (i) The board shall provide the first report required under subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.

As added by P.L.75-1992, SEC.19. Amended by P.L.76-1994, SEC.3; P.L.107-2002, SEC.17; P.L.193-2003, SEC.2.

IC 12-15-35-28.5

Therapeutics committee duties

Sec. 28.5. The therapeutics committee established under section 20.5 of this chapter shall do the following:

- (1) Advise and make recommendations to the board in the board's development and maintenance of a preferred drug list under section 28 of this chapter.
- (2) Submit to the board a proposed preferred drug list that has been approved by a majority of a quorum of the therapeutics committee.
- (3) Advise and make recommendations to the board in the board's review and maintenance of a preferred drug list.

As added by P.L.107-2002, SEC.18.

IC 12-15-35-28.7

Submitting initial preferred drug list; limitations on restrictions; advance notice to providers; implementation; prior authorization limitation; rules

Sec. 28.7. (a) The board shall submit the initial approved preferred drug list to the office not later than August 1, 2002.

- (b) Except as permitted under subsection (g), the office may not further restrict the status of a drug in the Medicaid program or the children's health insurance program until the board reviews a therapeutic classification and the office implements the therapeutic classification on the preferred drug list.
- (c) The office shall provide advance notice to providers of the contents of the preferred drug list submitted by the board under subsection (a).
- (d) Notwithstanding IC 12-15-13-6, the office shall implement any change in the preferred drug list not later than thirty (30) days after the date the board submits the amended list to the office.

- (e) Except as provided by section 28(g)(3) of this chapter, the office may not implement a preferred drug list or an amendment to the preferred drug list that has not been approved by the board.
- (f) The office may not require prior authorization for a drug that is excluded from the preferred drug list unless the board has made the determinations required under section 35 of this chapter.
- (g) The office may adopt rules under IC 4-22-2 necessary to carry out this chapter.

As added by P.L.107-2002, SEC.19. Amended by P.L.184-2003, SEC.8.

IC 12-15-35-29

Quorum; majority vote on DUR criteria and standards for prescribing

Sec. 29. (a) A quorum consists of six (6) voting members of the board.

(b) DUR criteria and standards for appropriate prescribing may only be implemented with the approval of a majority of the quorum of the board. The majority vote must include at least three (3) of the four (4) physician members of the board and may allow the board to accept deviations from the standards on a case-by-case basis.

As added by P.L.75-1992, SEC.19. Amended by P.L.231-1999, SEC.5.

IC 12-15-35-30

Local practices; monitoring

Sec. 30. The criteria and standards developed under section 28(3) of this chapter for appropriate prescribing that are implemented must reflect the local practices of physicians to monitor the following:

- (1) Therapeutic appropriateness.
- (2) Overutilization or underutilization.
- (3) Therapeutic duplication.
- (4) Drug-disease contraindications.
- (5) Drug-drug interactions.
- (6) Incorrect drug dosage or duration of drug treatment.
- (7) Clinical abuse and misuse.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-31

Intervention; approval; requisites

Sec. 31. (a) An intervention developed under section 28(4) of this chapter that involves a physician must be approved by at least three (3) of the four (4) physician members of the board before implementation.

(b) An intervention that involves a pharmacist must be approved by at least three (3) of the four (4) pharmacist members of the board before implementation.

(c) Interventions include the following:

- (1) Information disseminated to physicians and pharmacists to ensure that physicians and pharmacists are aware of the board's duties and powers.
- (2) Written, oral, or electronic reminders of recipient-specific or drug-specific information that are designed to ensure recipient, physician, and pharmacist confidentiality, and suggested changes in the prescribing or dispensing practices designed to improve the quality of care.
- (3) Use of face-to-face discussions between experts in drug therapy and the prescriber or pharmacist who has been targeted for educational intervention.
- (4) Intensified reviews or monitoring of selected prescribers or pharmacists.
- (5) The creation of an educational program using data provided through DUR to provide for active and ongoing educational outreach programs to improve prescribing and dispensing practices.
- (6) The timely evaluation of interventions to determine if the interventions have improved the quality of care.
- (7) The review of case profiles before the conducting of an intervention.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-32 Repealed

(Repealed by P.L.76-1994, SEC.7.)

IC 12-15-35-32.1

Annual report contents

Sec. 32.1. The annual report under section 28 of this chapter shall include information on the following:

- (1) A description of the nature and scope of the prospective drug review program.
- (2) A description of how pharmacies performing prospective DUR without computers are expected to comply with the statutory requirement for written criteria.
- (3) Detailed information on the specific criteria and standards in use and any changes in criteria.

- (4) A description of the nature and scope of the retrospective DUR program.
- (5) A summary of the educational interventions used and an assessment of the effect of these educational interventions on the quality of care.
- (6) An estimate of the cost savings generated as a result of the DUR program including savings to the Medicaid drug program attributable to the prospective and retrospective DUR.
- (7) An overview of the fiscal impact of the DUR program on other areas of the Medicaid program.
- (8) A quantifiable assessment of how DUR has improved quality of care.
- (9) A summary of the total number of prescriptions reviewed by drug therapeutic class.

As added by P.L.76-1994, SEC.4.

IC 12-15-35-33

Repealed

(Repealed by P.L.1-1993, SEC.132.)

IC 12-15-35-34

Confidential identifying information; release of cumulative nonidentifying information

Sec. 34. (a) Information that identifies an individual collected under this chapter is confidential and may not be disclosed by the board.

(b) The board may have access to identifying information for purposes of carrying out intervention activities. The identifying information may not be released to anyone other than a member of the board.

(c) The board may release cumulative non-identifying information for purposes of legitimate research.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-35

Prior approval program for outpatient drugs; standards

Sec. 35. (a) Before the board develops a program to place a single source drug on prior approval, restrict the drug in its use, or establish a drug monitoring process or program to measure or restrict utilization of single source drugs other than in the SURS program, the board must meet the following conditions:

(1) Make a determination, after considering evidence and credible information provided to the board by the office and the public, that placing a single source drug on prior approval or restricting the drug's use will not:

(A) impede the quality of patient care in the Medicaid program; or

(B) increase costs in other parts of the Medicaid program, including hospital costs and physician costs.

(2) Meet to review a formulary or a restriction on a single source drug after the office provides at least fifteen (15) days notification to the public that the board will review the formulary or restriction on a single source drug at a particular board meeting. The notification shall contain the following information:

(A) A statement of the date, time, and place at which the board meeting will be convened.

(B) A general description of the subject matter of the board meeting.

(C) An explanation of how a copy of the formulary to be discussed at the meeting may be obtained.

The board shall meet to review the formulary or the restriction on a single source drug at least fifteen (15) days but not more than sixty (60) days after the notification.

(3) Ensure that:

(A) there is access to at least two (2) alternative drugs within each therapeutic classification, if available, on the formulary; and

(B) a process is in place through which a Medicaid recipient has access to medically necessary drugs.

(4) Reconsider the drug's removal from its restricted status or from prior approval not later than six (6) months after the single source drug is placed on prior approval or restricted in its use.

(5) Ensure that the program provides either telephone or FAX approval or denial Monday through Friday, twenty-four (24) hours a day. The office must provide the approval or denial within twenty-four (24) hours after receipt of a prior approval request. The program must provide for the dispensing of at least a seventy-two (72) hour supply of the drug in an emergency situation or on weekends.

(6) Ensure that any prior approval program or restriction on the use of a single source drug is not applied to prevent acceptable medical use for appropriate off-label indications.

(b) The board shall advise the office on the implementation of any program to restrict the use of brand name multisource drugs.

(c) The board shall consider:

(1) health economic data;

(2) cost data; and

(3) the use of formularies in the non-Medicaid markets;

in developing its recommendations to the office.

As added by P.L.75-1992, SEC.19. Amended by P.L.76-1994, SEC.5; P.L.231-1999, SEC.6; P.L.6-2002, SEC.3; P.L.107-2002, SEC.20; P.L.1-2003, SEC.58.

IC 12-15-35-36

Advisory committees

Sec. 36. The board may establish advisory committees to assist the board in carrying out the board's duties under this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-37

Medicaid state plan; inclusion of retrospective and prospective DUR program

Sec. 37. The board shall, in cooperation with the secretary, include in the Medicaid state plan the creation and implementation of a retrospective and prospective DUR program for Medicaid outpatient drugs to ensure that the prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-38

DUR program guidelines and procedures

Sec. 38. The retrospective and prospective DUR program shall be operated under the guidelines and procedures established by the board under section 29 of this chapter.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-39

Retrospective DUR requisites

Sec. 39. Retrospective DUR must:

- (1) be based on the guidelines established by the board; and
- (2) use the mechanized drug claims processing and information retrieval system to analyze claims data to do the following:
 - (A) Identify patterns of fraud, abuse, gross overuse, and inappropriate or medically unnecessary care.
 - (B) Assess data on drug use against explicit predetermined standards that are based on the compendia and other sources to monitor the following:
 - (i) Therapeutic appropriateness.
 - (ii) Overutilization or underutilization.
 - (iii) Therapeutic duplication.
 - (iv) Drug-disease contraindications.
 - (v) Drug-drug interactions.
 - (vi) Incorrect drug dosage or duration of drug treatment.
 - (vii) Clinical abuse and misuse.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-40

Prospective DUR requisites

Sec. 40. Prospective DUR must be based on the guidelines established by the board and must provide that prior to the prescription being filled or delivered a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from the following:

- (1) Therapeutic duplication.
- (2) Drug-drug interactions.
- (3) Incorrect dosage and duration of treatment.
- (4) Drug-allergy interactions.
- (5) Clinical abuse and misuse.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-41

Board activities under IC 34-30-15

Sec. 41. The activities of the board in carrying out this chapter are covered under IC 34-30-15.

As added by P.L.75-1992, SEC.19. Amended by P.L.1-1998, SEC.103.

IC 12-15-35-42

Meetings

Sec. 42. (a) The board may meet in an executive session for purposes of reviewing DUR data or to conduct or to discuss activity as provided for in IC 5-14-1.5-6.1.

(b) The board shall also conduct regular public meetings to gather input from the public on the operation of the DUR program.

(c) The board shall meet monthly to implement its duties under this chapter.

As added by P.L.75-1992, SEC.19. Amended by P.L.291-2001, SEC.163.

IC 12-15-35-43

Confidentiality; pharmacist data and information

Sec. 43. Confidential data or information obtained by pharmacists as part of prospective DUR are confidential but may be released to prescribers or others according to procedures established by the board.

As added by P.L.75-1992, SEC.19.

IC 12-15-35-43.5

Prohibiting the release of proprietary or confidential information obtained under certain circumstances

Sec. 43.5. (a) The board, the therapeutics committee, or the office may not release proprietary or confidential information obtained as part of the development, implementation, or maintenance of a preferred drug list under this chapter.

(b) Information described in subsection (a) is confidential for purposes of IC 5-14-3-4(a)(1).

As added by P.L.107-2002, SEC.21. Amended by P.L.184-2003, SEC.9.

IC 12-15-35-44

Confidentiality; violations; penalty

Sec. 44. A person who does not comply with the confidentiality provisions under section 34 of this chapter commits a Class A misdemeanor.

As added by P.L.75-1992, SEC.19. Amended by P.L.1-1993, SEC.133.

IC 12-15-35-45

Outpatient drug formulary

Sec. 45. (a) The chairman of the board, subject to the approval of the board members, may appoint an advisory committee to make recommendations to the board on the development of a Medicaid outpatient drug formulary.

(b) If the office decides to establish a Medicaid outpatient drug formulary, the formulary shall be developed by the board.

(c) A formulary used by a Medicaid managed care organization is subject to sections 46 and 47 of this chapter.

As added by P.L.76-1994, SEC.6. Amended by P.L.231-1999, SEC.7.

IC 12-15-35-46

Review of proposed formulary

Sec. 46. (a) This section applies to a managed care organization that enters into an initial contract with the office to be a Medicaid managed care organization after May 13, 1999.

(b) Before a Medicaid managed care organization described in subsection (a) implements a formulary, the managed care organization shall submit the formulary to the office at least thirty-five (35) days before the date that the managed care organization implements the formulary for Medicaid recipients.

(c) The office shall forward the formulary to the board for the board's review and recommendation.

(d) The office shall provide at least thirty (30) days notification to the public that the board will review a Medicaid managed care organization's proposed formulary at a particular board meeting. The notification shall contain the following information:

(1) A statement of the date, time, and place at which the board meeting will be convened.

(2) A general description of the subject matter of the board meeting.

(3) An explanation of how a copy of the formulary to be discussed may be obtained.

The board shall meet to review the formulary at least thirty (30) days but not more than sixty (60) days after the notification.

(e) In reviewing the formulary, the board shall do the following:

(1) Make a determination, after considering evidence and credible information provided to the board by the office and the public, that the use of the formulary will not:

(A) impede the quality of patient care in the Medicaid program; or

(B) increase costs in other parts of the Medicaid program, including hospital costs and physician costs.

(2) Make a determination that:

(A) there is access to at least two (2) alternative drugs within

each therapeutic classification, if available, on the formulary;

(B) a process is in place through which a Medicaid member has access to medically necessary drugs; and

(C) the managed care organization otherwise meets the requirements of IC 27-13-38.

(f) The board shall consider:

(1) health economic data;

(2) cost data; and

(3) the use of formularies in the non-Medicaid markets;

in developing its recommendation to the office.

(g) Within thirty (30) days after the board meeting, the board shall make a recommendation to the office regarding whether the proposed formulary should be approved, disapproved, or modified.

(h) The office shall rely significantly on the clinical expertise of the board. If the office does not agree with the recommendations of the board, the office shall, at a public meeting, discuss the disagreement with the board and present any additional information to the board for the board's consideration. The board's consideration of additional information must be conducted at a public meeting.

(i) Based on the final recommendations of the board, the office shall approve, disapprove, or require modifications to the Medicaid managed care organization's proposed formulary. The office shall notify the managed care organization of the office's decision within fifteen (15) days of receiving the board's final recommendation.

(j) The managed care organization must comply with the office's decision within sixty (60) days after receiving notice of the office's decision.

(k) Notwithstanding the other provisions of this section, the office may temporarily approve a Medicaid managed care organization's proposed formulary pending a final recommendation from the board.

As added by P.L.231-1999, SEC.8.

IC 12-15-35-47

Review of changes to formulary

Sec. 47. (a) This section applies to the following changes to a formulary used by a Medicaid managed care organization for Medicaid recipients:

(1) Removing one (1) or more drugs from the formulary.

(2) Placing new restrictions on one (1) or more drugs on the formulary.

(b) Before a Medicaid managed care organization makes a change described in subsection (a), the managed care organization shall submit the proposed change to the office.

(c) The office shall forward the proposed change to the board for the board's review and recommendation.

(d) The office shall provide at least thirty (30) days notification to the public that the board will:

(1) review the proposed change; and

(2) consider evidence and credible information provided to the board;

at the board's regular board meeting before making a recommendation to the office regarding whether the proposed change should be approved or disapproved.

(e) Based on the final recommendation of the board, the office may approve or disapprove the proposed change. If a proposed change is not disapproved within ninety (90) days after the date the managed care organization submits the proposed change to the office, the managed care organization may implement the change to the formulary.

(f) A Medicaid managed care organization:

(1) may add a drug to the managed care organization's formulary without the approval of the office; and

(2) shall notify the office of any addition to the managed care organization's formulary within thirty (30) days after making the addition.

As added by P.L.231-1999, SEC.9.

IC 12-15-35-48

Board's review of a managed care organization's prescription drug program; report

Sec. 48. (a) The board shall review the prescription drug program of a managed care organization that participates in the state's risk-based managed care program at least one (1) time per year. The board's review of a prescription drug program must include the following:

(1) An analysis of the single source drugs requiring prior authorization, including the number of drugs requiring prior authorization in comparison to other managed care organizations' prescription drug programs that participate in the state's Medicaid program.

(2) A determination and analysis of the number and the type of drugs subject to a restriction.

- (3) A review of the rationale for:
 - (A) the prior authorization of a drug described in subdivision (1); and
 - (B) a restriction on a drug.
 - (4) A review of the number of requests a managed care organization received for prior authorization, including the number of times prior authorization was approved and the number of times prior authorization was disapproved.
 - (5) A review of:
 - (A) patient and provider satisfaction survey reports; and
 - (B) pharmacy-related grievance data for a twelve (12) month period.
 - (b) A managed care organization described in subsection (a) shall provide the board with the information necessary for the board to conduct its review under subsection (a).
 - (c) The board shall report to the select joint commission on Medicaid oversight established by IC 2-5-26-3 at least one (1) time per year on the board's review under subsection (a).
- As added by P.L.107-2002, SEC.22.*

IC 12-15-35-49

Information provided by office

- Sec. 49. (a) The office shall provide the board with information necessary for the board to carry out its duties under this chapter.
- (b) The office shall provide the information required under subsection (a):
- (1) when requested by the board; and
 - (2) in a timely manner.
- As added by P.L.291-2001, SEC.164.*

IC 12-15-37

Chapter 37. Medicaid Demonstration Projects

IC 12-15-37-1

Review of Medicaid recipient populations

- Sec. 1. The state department of health, with guidance and input from the office, shall review Medicaid recipient populations to determine which populations might benefit from transfer to an insurance product. Populations to review include participants in:
- (1) the IMPACT program; and
 - (2) certain geographic populations, including rural populations;
- to determine the fiscal and other effects of a demonstration project established for the benefit of these recipients.
- As added by P.L.93-1995, SEC.4.*

IC 12-15-37-2

Waivers from Department of Health and Human Services; eligible projects

- Sec. 2. After completing the review under section 1 of this chapter, the office, under the guidance of the state department of health, may seek waivers from the United States Department of Health and Human Services to establish one (1) or more of the following demonstration projects, the goal of each of which is to provide a more cost effective means of providing health care coverage for certain Medicaid eligible individuals:
- (1) Enrolling the designated recipients in prepaid health care delivery plans.
 - (2) Establishing medical savings accounts for designated recipients.
 - (3) Purchasing a private insurance product for designated recipients.
 - (4) Notwithstanding IC 12-15-5, redesigning the package of Medicaid benefits and services offered to designated recipients. Any package offered to designated recipients under this subdivision must include those services that may be provided within the scope of a provider's license if the service is covered under IC 12-15-12.
 - (5) Integrating the designated recipients into an already established risk pool.
- As added by P.L.93-1995, SEC.4.*

IC 12-15-37-3

Affidavit

- Sec. 3. The state department of health and the office may not implement any of the demonstration projects

under section 2 of this chapter until the office, under the guidance of the state department of health, files an affidavit with the governor that attests that the federal waivers applied for under section 2 of this chapter are in effect. The state department of health and the office shall file the affidavit under this section not later than five (5) days after the state department of health or the office are notified that the waiver is approved.

As added by P.L.93-1995, SEC.4.

IC 12-15-37-4

Time limit for implementation

Sec. 4. If a waiver is received from the United States Department of Health and Human Services and the governor receives the affidavit filed under section 3 of this chapter, the state department of health, with guidance and input from the office, shall implement the demonstration project for which the waiver was granted not more than ninety (90) days after the governor receives the affidavit.

As added by P.L.93-1995, SEC.4.

IC 12-15-37-5

Rules for implementation

Sec. 5. The state department of health, with guidance and input from the office, shall adopt rules under IC 4-22-2 to implement a demonstration project for which a waiver is granted under this chapter.

As added by P.L.93-1995, SEC.4.

IC 12-15-37-6

Waiver restrictions

Sec. 6. If the state department of health and the office seek a waiver under this chapter to establish a managed care program or other demonstration project, the state department of health and the office shall not seek a waiver of:

(1) federally qualified health centers and rural health clinic services as mandatory Medicaid services under:

(A) 42 U.S.C. 1396a(10)(A);

(B) 42 U.S.C. 1396d(a)(2)(B); and

(C) 42 U.S.C. 1396d(a)(2)(C); or

(2) reasonable cost reimbursement for federally qualified health centers and rural health clinics under 42 U.S.C. 1396a(a)(13)(C).

As added by P.L.93-1995, SEC.4. Amended by P.L.14-2000, SEC.30.

IC 12-15-37-7

Stroke prevention and treatment programs

Sec. 7. The office and the state department of health may collaborate with the American Heart Association to reduce the cost of stroke treatment and improve the outcome of stroke patients in the state. The collaboration may include the following:

(1) The development and implementation of a comprehensive statewide public education program on stroke prevention that is targeted at high-risk populations and at geographical areas that have a high incidence of stroke.

(2) The recommendation and dissemination of guidelines on the treatment of stroke patients, including emergency stroke care.

(3) The development of a program that would ensure that the public and health care providers are informed concerning the most effective stroke prevention strategies.

(4) The dissemination of information concerning public and private grant opportunities available for hospitals and providers of emergency medical services for the purposes of improving stroke patient care.

As added by P.L.224-2003, SEC.82.

IC 12-15-43

Chapter 43. PACE Program

IC 12-15-43-1

Authority to implement PACE

Sec. 1. The office may implement the Program of All-Inclusive Care for the Elderly (PACE) (42 U.S.C. 1396u-4) established under the federal Balanced Budget Act of 1997.

As added by P.L.20-2003, SEC.1.

IC 12-15-43-2

Rules

Sec. 2. The office may adopt rules under IC 4-22-2 necessary to implement this chapter.
As added by P.L.20-2003, SEC.1.

IC 12-16-14

Chapter 14. Hospital Care for the Indigent; Property Tax Levy and Funds

IC 12-16-14-3

County property tax levy; computation

Sec. 3. (a) For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

(b) For taxes first due and payable in 2003, each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2002; multiplied by

(2) the county's assessed value growth quotient determined under IC 6-1.1-18.5-2 for taxes first due and payable in 2003.

(c) For taxes first due and payable in 2004, 2005, and 2006, each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in the preceding year; multiplied by

(2) the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

(d) Except as provided in subsection (e):

(1) for taxes first due and payable in 2007, each county shall impose a hospital care for the indigent property tax levy equal to the average annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the state fiscal years beginning:

(A) July 1, 2003;

(B) July 1, 2004; and

(C) July 1, 2005; and

(2) for all subsequent annual levies under this section, the average annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the three (3) most recently completed state fiscal years.

(e) A county may not impose an annual levy under subsection (d) in an amount greater than the product of:

(1) The greater of:

(A) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2006; or
(B) the amount of the county's maximum hospital care for the indigent property tax levy determined under this subsection for taxes first due and payable in the immediately preceding year; multiplied by

(2) the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

As added by P.L.2-1992, SEC.10. Amended by P.L.283-2001, SEC.27; P.L.120-2002, SEC.30; P.L.255-2003, SEC.44.

IC 12-16-14-3.4 Repealed

(Repealed by P.L.255-2003, SEC.55.)

IC 12-16-14-3.7**Repealed**

(Repealed by P.L.255-2003, SEC.55.)

IC 12-17-16**Chapter 16. Indiana Kids First Trust****IC 12-17-16-1****Purpose**

Sec. 1. (a) The purpose of the Indiana kids first trust program and this chapter is to recognize that:

- (1) the children of the state are its single greatest resource;
- (2) children require the utmost protection to guard their future and the future of the state;
- (3) it is in the public interest to protect children from abuse and neglect; and
- (4) it is in the public interest to reduce infant mortality.

(b) Beginning with the state fiscal year beginning on July 1, 1995, the Indiana kids first trust program will provide funds for community programs that prevent child abuse and neglect.

(c) Beginning with the state fiscal year beginning July 1, 1998, the Indiana kids first trust program shall provide funds for community programs that reduce infant mortality from the infant mortality account established under section 13.5 of this chapter.

As added by P.L.62-1994, SEC.2. Amended by P.L.120-1997, SEC.1; P.L.216-2003, SEC.12.

IC 12-17-16-2**"Board" defined**

Sec. 2. As used in this chapter, "board" refers to the Indiana kids first trust fund board established by section 5 of this chapter.

As added by P.L.62-1994, SEC.2. Amended by P.L.216-2003, SEC.13.

IC 12-17-16-3**"Fund" defined**

Sec. 3. As used in this chapter, "fund" refers to the Indiana kids first trust fund established by section 12 of this chapter.

As added by P.L.62-1994, SEC.2. Amended by P.L.216-2003, SEC.14.

IC 12-17-16-4**"Project" defined**

Sec. 4. As used in this chapter, "project" means an undertaking:

- (1) that furthers the purposes of this chapter; and
- (2) for which an expenditure from the fund may be made.

As added by P.L.62-1994, SEC.2.

IC 12-17-16-5**Indiana kids first trust fund board**

Sec. 5. (a) The Indiana kids first trust fund board is established.

(b) The purpose of the board is to determine whether proposed projects under this chapter should be approved and to perform other duties given to the board by this chapter. The board shall approve projects and recommend to the division that the projects receive funds under sections 12 and 13.5 of this chapter.

(c) The board shall, before January 1 of each year, prepare a budget for expenditures from the fund for the following state fiscal year. The budget must contain priorities for expenditures from the fund to accomplish the projects that have been approved under this chapter. The budget shall be submitted to the division and the budget committee.

(d) The board may employ staff necessary to carry out the duties of the board.

As added by P.L.62-1994, SEC.2. Amended by P.L.120-1997, SEC.2; P.L.190-2001, SEC.1; P.L.216-2003, SEC.15.

IC 12-17-16-6**Members of board**

Sec. 6. The board consists of the following ten (10) members:

- (1) Two (2) individuals who are not members of the general assembly, appointed by the president pro tempore of the senate with advice from the minority leader of the senate.

(2) Two (2) individuals who are not members of the general assembly, appointed by the speaker of the house of representatives with advice from the minority leader of the house of representatives.

(3) The director of the division or the director's designee.

(4) Four (4) individuals appointed by the governor as follows:

(A) One (1) individual who represents the general public.

(B) Two (2) individuals who represent child advocacy organizations.

(C) One (1) individual who represents the medical community.

(5) The commissioner of the state department of health or the commissioner's designee. An individual designated by the commissioner under this subdivision must have knowledge of or experience in issues relating to:

(A) the prevention of child abuse and neglect; and

(B) the reduction of infant mortality.

As added by P.L.62-1994, SEC.2. Amended by P.L.120-1997, SEC.3; P.L.190-2001, SEC.2.

IC 12-17-16-7

Chairperson and vice chairperson of board

Sec. 7. (a) The members shall annually choose a chairperson and vice chairperson from among the members of the board under this section.

(b) The director of the division or the director's designee may not serve as chairperson or vice chairperson.

(c) If the member chosen as chairperson was appointed as a member by the president pro tempore of the senate or the speaker of the house of representatives, the vice chairperson must be chosen from among the members appointed by the governor. If the member chosen as chairperson was appointed as a member by the governor, the vice chairperson must be chosen from among the members appointed by the president pro tempore of the senate or the speaker of the house of representatives.

As added by P.L.62-1994, SEC.2. Amended by P.L.91-1996, SEC.4.

IC 12-17-16-8

Meetings, quorum, and voting of board

Sec. 8. (a) The board shall meet at least quarterly and at the call of the chair.

(b) Six (6) voting members of the board constitute a quorum. The board may take action only in the presence of a quorum.

(c) The affirmative vote of a majority of the members of the board is necessary for the board to take any action.

As added by P.L.62-1994, SEC.2. Amended by P.L.190-2001, SEC.3.

IC 12-17-16-9

Terms of board members

Sec. 9. (a) The term of a board member begins on the later of the following:

(1) The day the term of the member whom the individual is appointed to succeed expires.

(2) The day the individual is appointed.

(b) The term of a member expires July 1 of the second year after the member is appointed. However, a member serves at the pleasure of the appointing authority.

(c) The appointing authority may reappoint a member for a new term.

(d) The appointing authority shall appoint an individual to fill a vacancy among the members.

As added by P.L.62-1994, SEC.2.

IC 12-17-16-10

Compensation of board members

Sec. 10. (a) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the board who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.62-1994, SEC.2.

IC 12-17-16-11**Strategic plan; project proposal and fund request method**

Sec. 11. The board shall adopt and make available to the public:

- (1) a strategic plan to implement the purposes of this chapter; and
- (2) a method for proposing projects and requesting funds from the Indiana kids first trust fund.

As added by P.L.62-1994, SEC.2. Amended by P.L.216-2003, SEC.16.

IC 12-17-16-12**Indiana kids first trust fund**

Sec. 12. (a) The Indiana kids first trust fund is established to carry out the purposes of this chapter.

(b) The fund consists of the following:

- (1) Appropriations made by the general assembly.
 - (2) Interest as provided in subsection (e).
 - (3) Fees from kids first trust license plates issued under IC 9-18-30.
 - (4) Money donated to the fund.
 - (5) Money transferred to the fund from other funds.
- (c) The treasurer of state shall administer the fund.

(d) The expenses of administering the fund and this chapter shall be paid from the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(f) An appropriation made by the general assembly to the fund shall be allotted and allocated at the beginning of the fiscal period for which the appropriation was made.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund or any other fund.

(h) Subject to this chapter, there is annually appropriated to the division all money in the fund for the purposes of this chapter. However, the division may not request the allotment of money from the appropriation for a project that has not been approved and recommended by the board.

As added by P.L.62-1994, SEC.2. Amended by P.L.216-2003, SEC.17.

IC 12-17-16-13**Use of fund money**

Sec. 13. (a) Except as provided in subsection (b), money in the fund may be used for projects that propose to accomplish the following:

- (1) The support, development, and operation in local communities of programs that prevent child abuse and neglect.
- (2) The development of innovative local programs of education and training concerning child abuse and neglect.
- (3) The promotion of public awareness of child abuse and neglect.
- (4) Statewide efforts to prevent child abuse and neglect.

(b) Money in the infant mortality account established within the fund under section 13.5 of this chapter may be used only for projects that:

- (1) support, develop, and operate programs that reduce infant mortality in local communities;
- (2) develop innovative local programs of education and training concerning infant mortality;
- (3) promote public awareness of infant mortality; or
- (4) promote statewide efforts to reduce infant mortality.

(c) Money in the fund may not be granted to a state or local unit of government.

(d) The cost of any salary and benefits paid to staff employed under this chapter:

- (1) shall be paid from money in the fund; and
- (2) may not exceed forty-five thousand dollars (\$45,000) during any fiscal year.

As added by P.L.62-1994, SEC.2. Amended by P.L.91-1996, SEC.5; P.L.120-1997, SEC.4; P.L.190-2001, SEC.4.

IC 12-17-16-13.5**Infant mortality account**

Sec. 13.5. (a) The infant mortality account is established within the fund for the purpose of providing money for education and programs approved by the board under section 5(b) of this chapter to reduce infant mortality in Indiana. The account shall be administered by the treasurer of state.

(b) Expenses of administering the account shall be paid from money in the account. The account consists of the following:

(1) Fees from certificates of birth issued under IC 16-37-1-11.7.

(2) Appropriations to the account.

(3) Money donated to the account.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) Money in the account at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.120-1997, SEC.5.

IC 12-17-16-14

Annual report

Sec. 14. Before October 1 of each year, the board shall prepare a report concerning the program established by this chapter for the public and the general assembly.

As added by P.L.62-1994, SEC.2. Amended by P.L.91-1996, SEC.6.

IC 12-17-16-15

Adoption of rules

Sec. 15. The division may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.62-1994, SEC.2.

IC 12-17.6

ARTICLE 17.6. CHILDREN'S HEALTH INSURANCE PROGRAM

IC 12-17.6-1

Chapter 1. Definitions

IC 12-17.6-1-1

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-1-2

Sec. 2. "Crowd out" means the extent to which:

(1) families substitute coverage offered under the program for employer sponsored health insurance coverage for children; or

(2) employers:

(A) reduce or eliminate health insurance benefits for children under an employer based health insurance plan; or

(B) increase the employee's share of the cost of benefits for children under an employer based health insurance plan relative to the total cost of the plan; as a result of the program.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-1-3

Sec. 3. "Fund" refers to the children's health insurance program fund established by IC 12-17.6-7-1.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-1-4

Sec. 4. "Office" refers to the office of the children's health insurance program established by IC 12-17.6-2-1.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-1-5

Sec. 5. "Program" refers to the children's health insurance program established by IC 12-17.6-2.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-1-6

Sec. 6. "Provider" has the meaning set forth in IC 12-7-2-149(2).

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2

Chapter 2. Program Administration

IC 12-17.6-2-1

Sec. 1. The office of the children's health insurance program is established within the office of the secretary.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-2

Sec. 2. The office shall design and administer a system to provide health benefits coverage for children eligible for the program.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-3

Sec. 3. To the greatest extent possible, the office shall use the same:

- (1) eligibility determination;
- (2) enrollment;
- (3) provider networks; and
- (4) claims payment systems;

as are used by the Medicaid managed care program for children.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-4

Sec. 4. The office shall evaluate the feasibility of the following:

- (1) Establishing a program to subsidize employer sponsored coverage under the program.
- (2) Expanding health insurance coverage under the program to other populations as provided under section 2105(c)(3) of the federal Social Security Act.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-5

Sec. 5. Reviews of the program shall:

- (1) be conducted in compliance with federal requirements; and
- (2) include an analysis of the extent to which crowd out is occurring.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-6

Sec. 6. The office shall do the following:

- (1) Establish performance criteria and evaluation measures.
- (2) Monitor program performance.
- (3) Adopt a formula that:
 - (A) specifies the premiums, if any, to be paid by the parent or guardian of a child enrolled in the program; and
 - (B) is based on the child's family income.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-7

Sec. 7. (a) The office shall contract with an independent organization to evaluate the program.

(b) The office shall report the results of each evaluation to the:

- (1) children's health policy board established by IC 4-23-27-2; and
 - (2) select joint commission on Medicaid oversight established by IC 2-5-26-3.
- (c) This section does not modify the requirements of other statutes relating to the confidentiality of medical records.

As added by P.L.273-1999, SEC.177. Amended by P.L.66-2002, SEC.11.

IC 12-17.6-2-8

Sec. 8. The office may, in administering the program, contract with community entities, including private entities, for the following:

- (1) Outreach for and enrollment in the managed care program.
- (2) Provision of services.
- (3) Consumer education and public health education.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-9

Sec. 9. (a) The office shall incorporate creative methods, reflective of community level objectives and input, to do the following:

- (1) Encourage beneficial and appropriate use of health care services.

- (2) Pursue efforts to enhance provider availability.
- (b) In determining the best approach for each area, the office shall do the following:
 - (1) Evaluate distinct market areas.
 - (2) Weigh the advantages and disadvantages of alternative delivery models, including the following:
 - (A) Risk based managed care only.
 - (B) Primary care gatekeeper model only.
 - (C) A combination of clauses (A) and (B).

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-10

Sec. 10. (a) The office may establish a program to subsidize employer sponsored coverage for:

- (1) eligible individuals; and
- (2) the families of eligible individuals; consistent with federal law.
- (b) If the office establishes a program under subsection (a), the employer sponsored benefit package must comply with federal law.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-11

Sec. 11. (a) The office shall adopt rules under IC 4-22-2 to implement the program.

- (b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement the program on an emergency basis.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-2-12

Sec. 12. Not later than April 1, the office shall provide a report describing the program's activities during the preceding calendar year to the:

- (1) budget committee;
- (2) legislative council;
- (3) children's health policy board established by IC 4-23-27-2; and
- (4) select joint commission on Medicaid oversight established by IC 2-5-26-3.

As added by P.L.273-1999, SEC.177. Amended by P.L.66-2002, SEC.12.

IC 12-17.6-3

Chapter 3. Eligibility, Outreach, and Enrollment

IC 12-17.6-3-1

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-3-2

Sec. 2. (a) To be eligible to enroll in the program, a child must meet the following requirements:

- (1) The child is less than nineteen (19) years of age.
- (2) The child is a member of a family with an annual income of:
 - (A) more than one hundred fifty percent (150%); and
 - (B) not more than two hundred percent (200%); of the federal income poverty level.
- (3) The child is a resident of Indiana.
- (4) The child meets all eligibility requirements under Title XXI of the federal Social Security Act.
- (5) The child's family agrees to pay any cost sharing amounts required by the office.

- (b) The office may adjust eligibility requirements based on available program resources under rules adopted under IC 4-22-2.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-3-3

Sec. 3. (a) Subject to subsection (b), a child who is eligible for the program shall receive services from the program until the earlier of the following:

- (1) The child becomes financially ineligible.
- (2) The child becomes nineteen (19) years of age.
- (b) Subsection (a) applies only if the child and the child's family comply with enrollment requirements.

As added by P.L.273-1999, SEC.177. Amended by P.L.107-2002, SEC.25.

IC 12-17.6-3-4

Sec. 4. The office shall implement outreach strategies that build on community resources.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-3-5

Sec. 5. A child may apply at an enrollment center as provided in IC 12-15-4-1 to receive health care services from the program if the child meets the eligibility requirements of section 2 of this chapter.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-4**Chapter 4. Benefits, Crowd Out, and Cost Sharing****IC 12-17.6-4-1**

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-4-2

Sec. 2. (a) The benefit package provided under the program shall focus on age appropriate preventive, primary, and acute care services.

(b) The office shall offer health insurance coverage for the following basic services:

(1) Inpatient and outpatient hospital services.

(2) Physicians' services provided by a physician (as defined in 42 U.S.C. 1395x(r)).

(3) Laboratory and x-ray services.

(4) Well-baby and well-child care, including:

(A) age appropriate immunizations; and

(B) periodic screening, diagnosis, and treatment services according to a schedule developed by the office.

The office may offer services in addition to those listed in this subsection if appropriations to the program exist to pay for the additional services.

(c) The office shall offer health insurance coverage for the following additional services if the coverage for the services has an actuarial value equal to or greater than the actuarial value of the services provided by the benchmark program determined by the children's health policy board established by IC 4-23-27-2:

(1) Prescription drugs.

(2) Mental health services.

(3) Vision services.

(4) Hearing services.

(5) Dental services.

(d) Notwithstanding subsections (b) and (c), the office may not impose treatment limitations or financial requirements on the coverage of services for a mental illness if similar treatment limitations or financial requirements are not imposed on coverage for services for other illnesses.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-4-2.5

Sec. 2.5. Prescription drugs provided under the program are subject to the requirements of IC 12-15-35.5.

As added by P.L.6-2002, SEC.5.

IC 12-17.6-4-3

Sec. 3. Premium and cost sharing amounts established by the office are limited by the following:

(1) Deductibles, coinsurance, or other cost sharing is not permitted with respect to benefits for well-baby and well-child care, including age appropriate immunizations.

(2) Premiums and other cost sharing may be imposed based on family income. However, the total annual aggregate cost sharing with respect to all children in a family under this article may not exceed five percent (5%) of the family's income for the year.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-4-4

Sec. 4. The office may do the following:

(1) Determine cost sharing amounts.

(2) Determine waiting periods that may not exceed three (3) months and exceptions to the requirement of waiting periods for potential enrollees in the program.

(3) Adopt additional methods for complying with federal requirements relating to crowd out.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-4-5

Prohibited referrals; mechanisms to minimize incentive for employer to eliminate or reduce coverage

Sec. 5. (a) It is a violation of IC 27-4-1-4 if an insurer, or an insurance producer or insurance broker compensated by the insurer, knowingly or intentionally refers an insured or the dependent of an insured to the program for health insurance coverage when the insured already receives health insurance coverage through an employer's health care plan that is underwritten by the insurer.

(b) The office shall coordinate with the children's health policy board under IC 4-23-27 to evaluate the need for mechanisms that minimize the incentive for an employer to eliminate or reduce health care coverage for an employee's dependents.

As added by P.L.273-1999, SEC.177. Amended by P.L.178-2003, SEC.3.

IC 12-17.6-4-6

Sec. 6. Community health centers shall be used to provide health care services.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5

Chapter 5. Provider Contracts

IC 12-17.6-5-1

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5-2

Sec. 2. A provider agreement must include information that the office finds necessary to facilitate carrying out this article.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5-3

Sec. 3. A provider who participates in the program, including a provider who is a member of a managed care organization, must comply with the enrollment requirements that are established under IC 12-15.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5-4

Sec. 4. (a) A provider that participates in the Medicaid program is considered a provider for both the Medicaid program and the program under this article.

(b) If an enrollee in the Medicaid managed care program for children has direct access to a provider who has entered into a provider agreement under IC 12-15-11, an enrollee in the program has direct access to the same provider.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5

Chapter 5. Provider Contracts

IC 12-17.6-5-1

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5-2

Sec. 2. A provider agreement must include information that the office finds necessary to facilitate carrying out this article.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5-3

Sec. 3. A provider who participates in the program, including a provider who is a member of a managed care organization, must comply with the enrollment requirements that are established under IC 12-15.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-5-4

Sec. 4. (a) A provider that participates in the Medicaid program is considered a provider for both the

Medicaid program and the program under this article.

(b) If an enrollee in the Medicaid managed care program for children has direct access to a provider who has entered into a provider agreement under IC 12-15-11, an enrollee in the program has direct access to the same provider.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6

Chapter 6. Provider Sanctions, Theft, Kickbacks, and Bribes

IC 12-17.6-6-1

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-2

Sec. 2. If after investigation the office finds that a provider has violated this article or rule adopted under this article, the office may impose at least one (1) of the following sanctions:

- (1) Deny payment to the provider for program services provided during a specified time.
- (2) Reject a prospective provider's application for participation in the program.
- (3) Terminate a provider agreement allowing a provider's participation in the program.
- (4) Assess a civil penalty against the provider in an amount not to exceed three (3) times the amount paid to the provider that exceeds the amount that was legally due.
- (5) Assess an interest charge, at a rate not to exceed the rate established by IC 24-4.6-1-101(2) for judgments on money, on the amount paid to the provider that exceeds the amount that was legally due. The interest charge accrues from the date of the overpayment to the provider.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-3

Sec. 3. In addition to any sanction imposed on a provider under section 2 of this chapter, a provider convicted of an offense under IC 35-43-5-7.2 is ineligible to participate in the program for ten (10) years after the conviction.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-4

Sec. 4. A provider may appeal a sanction imposed under section 2 of this chapter under rules concerning Medicaid provider appeals that are adopted by the secretary under IC 4-22-2.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-5

Sec. 5. After exhausting all administrative remedies, a provider may obtain judicial review of a sanction under IC 4-21.5-5.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-6

Sec. 6. A final directive made by the office that:

- (1) denies payment to a provider for medical services provided during a specified period; or
 - (2) terminates a provider agreement permitting a provider's participation in the program;
- must direct the provider to inform each eligible recipient of services, before services are provided, that the office will not pay for those services if provided.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-7

Sec. 7. Subject to section 8 of this chapter, a final directive:

- (1) denying payment to a provider;
 - (2) rejecting a prospective provider's application for participation in the program; or
 - (3) terminating a provider agreement allowing a provider's participation in the program;
- must be for a sufficient time, in the opinion of the office, to allow for the correction of all deficiencies or to prevent further abuses.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-8

Sec. 8. Except as provided in section 10 of this chapter, a provider sanctioned under section 2 of this chapter may not be declared reinstated as a provider under this article until the office has received the following:

(1) Full repayment of the amount paid to the provider in excess of the proper and legal amount due, including any interest charge assessed by the office.

(2) Full payment of a civil penalty assessed under section 2(4) of this chapter.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-9

Sec. 9. Except as provided in section 10 of this chapter, a provider sanctioned under section 2 of this chapter may file an agreement as provided in IC 12-17.6-5.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-10

Sec. 10. A provider who has been:

(1) convicted of a crime relating to the provision of services under this chapter; or

(2) subjected to a sanction under section 2 of this chapter on three (3) separate occasions by directive of the office;

is ineligible to submit claims for the program.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-11

Sec. 11. Evidence that a person or provider received money or other benefits as a result of a violation of:

(1) a provision of this article; or

(2) a rule established by the office under this article;

constitutes prima facie evidence, for purposes of IC 35-43-4-2, that the person or provider intended to deprive the state of a part of the value of the money or benefits.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-6-12

Sec. 12. A person who furnishes items or services to an individual for which payment is or may be made under this chapter and who knowingly or intentionally solicits, offers, or receives a:

(1) kickback or bribe in connection with the furnishing of the items or services or the making or receipt of the payment; or

(2) rebate of a fee or charge for referring the individual to another person for the furnishing of items or services;

commits a Class A misdemeanor.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-7

Chapter 7. Funding

IC 12-17.6-7-1

Sec. 1. The children's health insurance program fund is established for the purpose of paying expenses relating to:

(1) the program;

(2) services offered through the program for children enrolled in the program; and

(3) services and administration eligible for reimbursement under Title XXI of the federal Social Security Act for children enrolled in Medicaid under IC 12-15-2-14.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-7-2

Sec. 2. The office shall administer the fund.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-7-3

Sec. 3. The fund consists of the following:

(1) Amounts appropriated by the general assembly.

(2) Amounts appropriated by the federal government.

(3) Fees, charges, gifts, grants, donations, money received from any other source, and other income funds as may become available.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-7-4

Sec. 4. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations

of the fund in the same manner as other public funds may be invested.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-7-5

Sec. 5. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8

Chapter 8. Appeals and Hearings

IC 12-17.6-8-1

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8-2

Sec. 2. An applicant for or a recipient of services under the program may appeal to the office if at least one (1) of the following occurs:

(1) An application or a request is not acted upon by the office within a reasonable time after the application or request is filed.

(2) The application is denied.

(3) The applicant or recipient is dissatisfied with the action of the office.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8-3

Sec. 3. The secretary shall conduct hearings and appeals concerning the program under IC 4-21.5.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8-4

Sec. 4. The office shall, upon receipt of notice of appeal under section 2 of this chapter, set the matter for hearing and give the applicant or recipient an opportunity for a fair hearing in the county in which the applicant or recipient resides.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8-5

Sec. 5. (a) At a hearing held under section 4 of this chapter, the applicant or recipient and the office may introduce additional evidence.

(b) A hearing held under section 4 of this chapter shall be conducted under rules adopted by the secretary for applicants and recipients of Medicaid that are not inconsistent with IC 4-21.5 and the program.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-8-6

Sec. 6. The office:

(1) may make necessary additional investigations; and

(2) shall make decisions concerning the:

(A) granting of program services; and

(B) amount of program services to be granted;

to an applicant or a recipient that the office believes are justified and in conformity with the program.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9

Chapter 9. Confidentiality and Release of Information

IC 12-17.6-9-1

Sec. 1. This chapter does not apply until January 1, 2000.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-2

Sec. 2. The following concerning a program applicant or recipient under the program are confidential, except as otherwise provided in this chapter:

(1) An application.

(2) An investigation report.

(3) An information.

(4) A record.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-3

Sec. 3. The use and the disclosure of the information described in this chapter to persons authorized by law in connection with the official duties relating to:

- (1) financial audits;
 - (2) legislative investigations; or
 - (3) other purposes directly connected with the administration of the program;
- is authorized.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-4

Sec. 4. (a) The release and use of information of a general nature shall be provided as needed for adequate interpretation or development of the program.

(b) The information described in subsection (a) includes the following:

- (1) Total program expenditures.
- (2) The number of recipients.
- (3) Statistical and social data used in connection with studies.
- (4) Reports or surveys on health and welfare problems.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-5

Sec. 5. The office shall make available the following to providers for immediate access to information indicating whether an individual is eligible for the program:

- (1) A twenty-four (24) hour telephone system.
- (2) A computerized data retrieval system.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-6

Sec. 6. Information released under section 5 of this chapter is limited to the following:

- (1) Disclosure of whether an individual is eligible for the program.
- (2) The date the individual became eligible for the program and the individual's program number.
- (3) Restrictions, if any, on the scope of services to be reimbursed under the program for the individual.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-7

Sec. 7. Information obtained by a provider under this chapter concerning an individual's eligibility for the program is confidential and may not be disclosed to any person.

As added by P.L.273-1999, SEC.177.

IC 12-17.6-9-8

Sec. 8. If it is established that a provision of this chapter causes the program to be ineligible for federal financial participation, the provision is limited or restricted to the extent that is essential to make the program eligible for federal financial participation.

As added by P.L.273-1999, SEC.177.

IC 12-19-5

Chapter 5. County Welfare Fund; Short Term Borrowing

IC 12-19-5-1

Appeal by county director; short term loan

Sec. 1. (a) In addition to the other method of welfare financing provided by this article, the county director may appeal for the right to borrow money on a short term basis to fund:

- (1) child services under IC 12-19-7-1;
- (2) children's psychiatric residential treatment services under IC 12-19-7.5; or
- (3) other welfare services in the county;

if the county director determines that the family and children's fund or the children's psychiatric residential treatment services fund will be exhausted before the end of a fiscal year.

(b) In an appeal under this section, the county director must show the following:

- (1) That the amount of money in the family and children's fund or the children's psychiatric residential treatment services fund will be insufficient to fund the appropriate services within the county under this

article.

(2) The amount of money that the county director estimates will be needed to fund that deficit.

(c) The county director shall immediately transmit an appeal under this section to the director.

As added by P.L.2-1992, SEC.13. Amended by P.L.36-1994, SEC.20; P.L.273-1999, SEC.64; P.L.224-2003, SEC.90.

IC 12-19-5-9

Approval of loan; conditions

Sec. 9. The division or a county fiscal body may not do the following:

(1) Recommend or approve a request to borrow money made under this chapter unless the body determines that the family and children's fund or the children's psychiatric residential treatment services fund will be exhausted before the particular fund can fund all county obligations incurred under this article.

(2) Recommend or approve a loan that will exceed the amount of the estimated deficit.

As added by P.L.2-1992, SEC.13. Amended by P.L.36-1994, SEC.23; P.L.46-1995, SEC.47; P.L.273-1999, SEC.65; P.L.224-2003, SEC.91.

IC 12-19-7.5

Chapter 7.5. County Financing of Children's Psychiatric Residential Treatment Services for Medicaid Eligible Children

IC 12-19-7.5-1

"Children's psychiatric residential treatment services"

Sec. 1. As used in this chapter, "children's psychiatric residential treatment services" means services that are:

(1) eligible for federal financial participation under the state Medicaid plan; and

(2) provided to individuals less than twenty-one (21) years of age who are:

(A) eligible for services under the state Medicaid plan;

(B) approved by the office for admission to and treatment in a private psychiatric residential treatment facility; and

(C) residing in a private psychiatric residential facility for the purposes of treatment for a mental health condition, based on an approved treatment plan that complies with applicable federal and state Medicaid rules and regulations.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-2

"Fund"

Sec. 2. As used in this chapter, "fund" means the children's psychiatric residential treatment services fund established by section 5 of this chapter.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-3

"Private psychiatric residential treatment facility"

Sec. 3. As used in this chapter, "private psychiatric residential treatment facility" means a privately owned and operated facility that:

(1) provides inpatient treatment to individuals less than twenty-one (21) years of age for mental health conditions;

(2) is licensed or certified by:

(A) the division of family and children; or

(B) the division of mental health and addiction;

to provide children's psychiatric residential treatment services; and

(3) is enrolled in the state Medicaid program as a provider eligible to provide children's psychiatric residential treatment services.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-4

"State Medicaid plan"

Sec. 4. As used in this chapter, "state Medicaid plan" means the state plan approved by the United States Department of Health and Human Services for purposes of federal financial participation, under

Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-5

Fund established; levy

Sec. 5. (a) A children's psychiatric residential treatment services fund is established in each county. The fund shall be raised by a separate tax levy (the county children's psychiatric residential treatment services property tax levy) that:

(1) is in addition to all other tax levies authorized; and

(2) shall be levied annually by the county fiscal body on all taxable property in the county in the amount necessary to raise the part of the fund that the county must raise to pay the items, awards, claims, allowances, assistance, and other expenses set forth in the annual budget under section 8 of this chapter.

(b) The tax imposed under this section shall be collected as other state and county ad valorem taxes are collected.

(c) The following shall be paid into the county treasury and constitute the children's psychiatric residential treatment services fund:

(1) All receipts from the tax imposed under this section.

(2) All grants-in-aid, whether received from the federal government or state government.

(3) Any other money required by law to be placed in the fund.

(d) The fund is available for the purpose of paying expenses and obligations set forth in the annual budget that is submitted and approved.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-6

Levy; calculation; limitations

Sec. 6. (a) For taxes first due and payable in 2004, each county must impose a county children's psychiatric residential services property tax levy equal to the amount determined using the following formula:

STEP ONE: Determine the sum of the amounts that were paid by the county minus the amounts reimbursed by the state (including reimbursements made with federal money), as determined by the state board of accounts in 2000, 2001, and 2002 for payments to facilities licensed under 470 IAC 3-13 for services that were made on behalf of the children and for which payment was made from the county family and children fund, or five percent (5%) of the average family and children budget, as determined by the department of local government finance in 2000, 2001, and 2002, whichever is greater.

STEP TWO: Subtract from the amount determined in STEP ONE the sum of the miscellaneous taxes that were allocated to the county family and children fund and used to pay the costs for providing services in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002.

STEP THREE: Divide the amount determined in STEP TWO by three (3).

STEP FOUR: Calculate the STEP ONE amount and the STEP TWO amount for 2002 expenses only.

STEP FIVE: Adjust the amounts determined in STEP THREE and STEP FOUR by the amount determined by the department of local government finance under subsection (c).

STEP SIX: Determine whether the amount calculated in STEP THREE, as adjusted in STEP FIVE, or the amount calculated in STEP FOUR, as adjusted in STEP FIVE, is greater. Multiply the greater amount by the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and payable in 2003.

STEP SEVEN: Multiply the amount determined in STEP SIX by the county's assessed value growth quotient for property taxes first due and payable in 2004, as determined under IC 6-1.1-18.5-2.

(b) For taxes first due and payable in each year after 2004, each county shall impose a county children's psychiatric residential treatment services property tax levy equal to the product of:

(1) the county children's psychiatric residential treatment services property tax levy imposed for taxes first due and payable in the preceding year; multiplied by

(2) the greater of:

(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2; or

(B) one (1).

When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy under this section.

(c) For taxes first due and payable in 2004, the department of local government finance shall adjust the levy for each county to reflect the county's actual expenses incurred in providing services to children in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002. In making this adjustment, the department of local government finance may consider all relevant information, including the county's use of bond and loan proceeds to pay these expenses.

(d) The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-7

One time reduction in related levies

Sec. 7. For taxes first due and payable in 2004, the department of local government finance shall reduce the maximum levy for the

county family and children fund or the county general fund (in whatever amounts are appropriate) by an amount equal to the result in section 6(a) of this chapter.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-8

County director; adoption of budget

Sec. 8. (a) For purposes of this section, "expenses and obligations incurred by the county office" include all anticipated costs of children's residential psychiatric services that are equal to the state share of the cost of those services that are reimbursable under the state Medicaid plan.

(b) The county director, upon the advice of the judges of the courts with juvenile jurisdiction in the county, shall annually compile and adopt a children's psychiatric residential treatment services budget, which must be in a form prescribed by the state board of accounts. The budget may not exceed the levy limitation set forth in IC 6-1.1-18.6.

(c) The budget must contain an estimate of the amount of money that will be needed by the county office during the fiscal year to defray the expenses and obligations incurred by the county office in the payment of children's psychiatric residential treatment services for children who are residents of the county.

As added by P.L.224-2003, SEC.92

IC 12-19-7.5-9

County director; levy recommendation; submission to division of family and children

Sec. 9. (a) The county director shall, with the assistance of the judges of courts with juvenile jurisdiction in the county and at the same time the budget is compiled and adopted, recommend to the division the tax levy that the director and judges determine will be required to raise the amount of revenue necessary to pay the expenses and obligations of the county office set forth in the budget under section 8 of this chapter.

However, the tax levy may not exceed the maximum permissible levy set forth in IC 6-1.1-18.6, and the budget may not exceed the levy limitation set forth in IC 6-1.1-18.

(b) After the county budget has been compiled, the county director shall submit a copy of the budget and the tax levy recommended by the county director and the judges of courts with juvenile jurisdiction in the county to the division. The division shall examine the budget and the tax levy for the purpose of determining whether, in the judgment of the division:

(1) the appropriations requested in the budget will be adequate to defray the expenses and obligations incurred by the county office in the payment of children's psychiatric residential treatment services for the next fiscal year; and

(2) the tax levy recommended will yield the amount of the appropriation set forth in the budget.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-10

Review by division of family and children

Sec. 10. The division may do the following after examining a budget submitted by the county office:

(1) Increase or decrease the amount of the budget or an item of the budget, subject to the maximum levy set forth in IC 6-1.1-18.6.

(2) Approve the budget as compiled by the county director and judges of courts with juvenile jurisdiction in the county.

(3) Recommend the increase or decrease of the tax levy, subject to the maximum levy set forth in IC 6-1.1-18.6.

(4) Approve the tax levy as recommended by the county director and judges of courts with juvenile

jurisdiction in the county.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-11

Budget certification; submission to county fiscal body

Sec. 11. The budget finally approved and the tax levy recommended by the division shall be:

- (1) certified to the county office; and
- (2) filed for consideration by the county fiscal body.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-12

Budget format; filing procedure

Sec. 12. Except as otherwise provided, a budget submitted under section 11 of this chapter must be prepared and filed in the same form and manner and at the same time as the budgets and estimates of other county officers are prepared and filed.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-13

Budget review; county fiscal body; appropriation; levy

Sec. 13. In September of each year, at the time provided by law, the county fiscal body shall do the following:

- (1) Make the appropriations out of the children's psychiatric residential treatment services fund that are:
 - (A) based on the budget as submitted; and
 - (B) necessary to maintain the children's psychiatric residential treatment services of the county for the next fiscal year, subject to the maximum levy set forth in IC 6-1.1-18.6.
- (2) Levy a tax in an amount necessary to produce the appropriated money.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-14

County director report; exhaustion of available funds; certification and filing

Sec. 14. (a) If at any time the county director determines that the children's psychiatric residential treatment services fund is exhausted or will be exhausted before the close of a fiscal year, the county director shall prepare an estimate and statement showing the amount of money, in addition to the money already made available, that will be necessary to defray the expenses of the county office and pay the obligations of the county office, excluding administrative expenses and facilities, supplies, and equipment expenses for the county office, in the administration of the county office's activities for the unexpired part of the fiscal year.

(b) The county director shall do the following:

- (1) Certify the estimate and statement to the county executive.
- (2) File the estimate and statement with the county auditor.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-15

Review by county executive; borrowing approval

Sec. 15. (a) The county executive shall consider and act upon an estimate and statement under section 14 of this chapter at:

- (1) the county executive's regular session immediately following the filing of the estimate and statement; or
- (2) a special session that is:
 - (A) called for the purpose of considering and acting upon the estimate and statement; and
 - (B) called before the executive's regular session described in subdivision (1).

(b) The county executive shall, for and on behalf of the county, borrow sufficient money to carry out the purposes described in section 14 of this chapter if after consideration of the estimate and statement the county executive finds the following:

- (1) That the county director has not appealed to borrow money under IC 12-19-5 or that the appeal has been denied.
- (2) That the amount of money required, in addition to any money already available, to defray the expenses and pay the obligations of the county office in the administration of the county's children's psychiatric residential treatment services for the unexpired part of the fiscal year is greater than the amount of money that may be advanced from the general fund of the county.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-16

Required findings; county executive; notice to county fiscal body

Sec. 16. (a) Before making a loan under section 15 of this chapter, the county executive shall record a finding that the amount of money that will be required is greater than the amount of money that may be advanced from the general fund of the county. The finding must:

(1) set forth the estimated requirements of the county office;
and

(2) direct the county auditor to call the county fiscal body into special session for the purpose of considering the making of the loan.

(b) In the notice of the special session of the county fiscal body, the auditor shall include a statement of the estimated amount of the proposed loan.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-17

County fiscal body; ordinance required; borrowing authorization

Sec. 17. (a) In authorizing a loan under section 15 of this chapter, the county fiscal body:

(1) shall act by ordinance; and

(2) may adopt the ordinance under this section at a regular meeting without giving special notice if requested by the county executive.

(b) The county fiscal body may:

(1) finally adopt the ordinance at the meeting at which the ordinance is first presented; or

(2) adjourn from day to day for further consideration of the ordinance.

(c) The county fiscal body is not required to make an itemized appropriation of the proceeds of the bonds at the time the bonds are issued. Except as provided in section 26 of this chapter, the entire proceeds of the bonds:

(1) shall be placed in the children's psychiatric residential treatment services fund; and

(2) are periodically subject to appropriation as required by this article.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-18

Ordinance; contents

Sec. 18. An ordinance adopted by the county fiscal body authorizing a loan under this chapter must do the following:

(1) Authorize the issuance of the bonds of the county to evidence the loan.

(2) Fix the following:

(A) The loan's maximum amount, which may be less than the amount shown by the estimate of the county director.

(B) The number of semiannual series in which the bonds are payable, which may not exceed twenty (20).

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-19

Bonds; requirements

Sec. 19. The following apply to bonds issued under this chapter:

(1) The bonds shall be issued so that one (1) series will be payable June 30 and one (1) series December 31 of each year in which bonds are payable.

(2) The series must be as nearly equal as possible, considering the following:

(A) The amount of the issue.

(B) The number of serial maturities.

(C) The denominations to be used.

(3) The first series of bonds and the first interest payments must be payable June 30 of the year following the establishing of the annual tax levies immediately following the date of the issue.

(4) The county fiscal body may provide that the first two (2) series of bonds mature in the year following the year in which the bonds were issued if:

(A) issuance of the bonds is authorized by the county fiscal body at the fiscal body's regular meeting held for the purpose of establishing tax levies for the following year; and

(B) provision is made for the payment of the bonds and interest that are payable in the following year.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-20

Additional loans

Sec. 20. If the proceeds of the bonds authorized under this chapter are insufficient to enable the county to

administer the child services of the county for the unexpired part of the fiscal year, additional loans may be made for that time.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-21

Issuing bonds; county executive responsibilities

Sec. 21. (a) After the adoption of the bond ordinance by the county fiscal body, the county executive shall enter an order that does the following:

(1) Fixes the exact amount of the proposed loan. The amount of the proposed loan must be the maximum amount provided in the bond ordinance less any amount to be advanced from the general fund of the county.

(2) Fixes the exact rate of interest on the bonds or provides that the interest rate must be the lowest interest rate bid on the bonds. The interest rate may not exceed the maximum interest rate provided in the bond ordinance.

(b) The county executive may:

(1) fix the denominations of the bonds; or

(2) provide that the bonds shall be issued in denominations requested by the successful bidder.

(c) The denominations selected under subsection (b) may not change the amount of the serial maturities of the bonds.

(d) The county executive shall adopt the form of bond to be used in the issuance of the bonds. The form shall be substantially followed in the issuance of the bonds.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-22

Issuing bonds; notice of determination

Sec. 22. Upon the adoption of the order of the county executive under section 21 of this chapter, the county auditor shall give notice of the determination to make the loan and to issue the bonds.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-23

Application; laws governing taxpayer appeals and remonstrance

Sec. 23. The provisions of laws concerning the right of a taxpayer to file a remonstrance and to appeal to the department of local government finance apply to this chapter. However, the notice of the determination shall be given in one (1) publication. A taxpayer has ten (10) days after the date of publication to file a remonstrance.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-24

Application; laws governing sale of bonds

Sec. 24. Except as otherwise provided, the provisions of the general laws relating to the preparation and sale of bonds by counties apply to the preparation and sale of bonds issued under this chapter.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-25

Public notice

Sec. 25. (a) Before the sale of bonds under this chapter, the auditor shall publish notice of the sale one (1) time each week for two (2) consecutive weeks. All publications must be made at least seven (7) days before the date fixed for the sale of the bonds. The notice must be published:

(1) in two (2) newspapers published in the county; and

(2) one (1) time in a newspaper published in the city of Indianapolis.

(b) If the order of the county executive provides for a bid rate on the bonds, the notice of sale must state the following:

(1) That the order provides for a bid rate.

(2) That the highest bidder for the bonds will be the person that offers the lowest net interest cost to the county. The net interest cost shall be determined by:

(A) computing the total interest on all of the bonds to maturity; and

(B) deducting any premium bid from the total interest determined under clause (A).

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-26

Procedure for selling bonds; unsatisfactory bid

Sec. 26. The auditor shall sell bonds issued under this chapter to the highest bidder. If a satisfactory bid is not received for all of the bonds at the time fixed in the notice of sale, the auditor may do the following:

- (1) Continue the sale from day to day.
- (2) Sell bonds in parcels until otherwise directed by an order of the county executive.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-27

General obligation of county; mandatory levy

Sec. 27. (a) All bonds issued under this chapter:

- (1) are direct general obligations of the county issuing the bonds; and
- (2) are payable out of unlimited ad valorem taxes that shall be levied and collected on all the taxable property within the county.

(b) Each official and body responsible for the levying of taxes for the county must ensure that sufficient levies are made to meet the principal and interest on the bonds at the time fixed for the payment of the principal and interest, without regard to any other statute. If an official or a body fails or refuses to make or allow a sufficient levy required by this section, the bonds and the interest on the bonds shall be payable out of the general fund of the county without appropriation.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-28

Use of bond proceeds; expenses of bond sale

Sec. 28. (a) Upon approval of the county executive, the auditor may pay out of the proceeds of the bonds without further appropriation the cost of the following:

- (1) Publishing the notice of determination and the bond sale notice.
- (2) The printing of the bonds.
- (3) The expense for legal services incurred in the sale of the bonds.
- (4) Reimbursing the general fund for advancements made to the children's psychiatric residential treatment services fund.

(b) The proceeds of the bonds remaining after the payment of the costs of the issuance of the bonds shall be paid into and are a part of the children's psychiatric residential treatment services fund.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-29

Anticipation loans

Sec. 29. The county fiscal body may authorize and make temporary loans for the use and benefit of the children's psychiatric residential treatment services fund in anticipation of current revenues of the county that are actually levied and being collected for the fiscal year in which the loans are authorized and made. Each temporary loan authorized and made under this section must be authorized and made in conformity with IC 36-2-6.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-30

Refunding indebtedness; county fiscal body powers; serial bonds

Sec. 30. Upon the affirmative vote of two-thirds (2/3) of the members of the county fiscal body, a county may issue the county's serial bonds for an amount not exceeding in aggregate the amount for which the county is indebted for the use of the children's psychiatric residential treatment services fund if the following conditions exist:

- (1) The indebtedness for the use of the children's psychiatric residential treatment services fund is evidenced by bonds, notes, judgments, or obligations that are:
 - (A) issued or negotiated by the county; or
 - (B) rendered against the county.
- (2) The serial bonds are issued for any of the following purposes:
 - (A) Funding or refunding the indebtedness or any part of the indebtedness.
 - (B) Reducing the rate of interest on the indebtedness.
 - (C) Extending the time of payment of the indebtedness.
 - (D) Canceling the amount of the indebtedness that becomes due.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-31

Refunding indebtedness; bond requirements

Sec. 31. The serial bonds issued under section 30 of this chapter:

(1) may be of any denomination that is:

(A) not less than fifty dollars (\$50); and

(B) not more than one thousand dollars (\$1,000);

(2) shall be payable:

(A) at any place named on the serial bonds; and

(B) at any time not later than fifteen (15) years after the date of the serial bonds;

(3) may bear any rate of interest, payable annually or semiannually;

(4) shall be sold at not less than the par value of the bonds; and

(5) shall be sold in the manner provided for the sale of bonds issued under IC 12-20-23.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-32

Refunding indebtedness; repayment levy

Sec. 32. (a) The county fiscal body shall add to the tax duplicate of the county:

(1) an annual levy sufficient to pay the yearly interest on the bonds issued under section 30 of this chapter; and

(2) an annual levy sufficient to provide a sinking fund for the liquidation of the principal as the principal becomes due. The sinking fund shall be applied solely to the payment of the bonds.

(b) If the county fiscal body fails to levy a tax sufficient to pay the interest on the bonds or to liquidate the principal of the bonds as the principal becomes due, the county auditor shall levy the tax or increase the tax levy made by the county fiscal body in the amount necessary to pay the interest and to retire the bonds as the bonds become due.

(c) Notwithstanding any other law, the tax levy may not be reduced below the amount required under this section.

As added by P.L.224-2003, SEC.92.

IC 12-19-7.5-33

Use of excess funds; payment to correctional facilities

Sec. 33. (a) A county auditor shall annually, not before January 1 and not later than March 31, determine the amount of any excess funds available in the county children's psychiatric treatment services fund based on the following formula:

STEP ONE: Determine the ending cash balance in the fund in the preceding fiscal year.

STEP TWO: Calculate one-half of the actual cost of providing children's psychiatric treatment services.

STEP THREE: Subtract the amount determined in STEP TWO from the amount determined in STEP ONE.

(b) The county auditor shall transfer the amount determined in subsection (a) STEP THREE, if any, from the county children's psychiatric treatment services fund to the county general fund to be used to pay for the part of the care and maintenance of the inmates of the Plainfield juvenile correctional facility and the Indianapolis juvenile correctional facility that is charged back to the counties.

As added by P.L.224-2003, SEC.92.

IC 12-20-16-2

Medical assistance; necessity

Sec. 2. (a) Except as provided in subsections (b) and (c), the township trustee shall, in cases of necessity, do the following:

(1) Promptly provide medical assistance for poor individuals in the township who are not provided for in public institutions.

(2) See that medicines, medical supplies, special diets, or tests prescribed by a physician or surgeon in attendance upon poor individuals in the township are properly furnished.

(b) A township trustee may not provide to an individual medical assistance under the poor relief program if the individual could qualify for medical assistance for the same service under:

(1) IC 12-16;

(2) Medicaid;

(3) other governmental medical programs; or

(4) private health insurance that would cover the individual at the time the assistance was provided.

However, if the individual's insurance does not pay for the medical assistance due to a policy deductible or other policy limitation, the township trustee shall pay for medical assistance that the trustee would provide

if the individual did not have insurance.

However, a township trustee may provide interim medical services during the period that the individual has an application pending for medical assistance under Medicaid (IC 12-15) or another governmental medical program if the individual is reasonably complying with all requirements of the application process.

(c) The township trustee shall pay only for the following medical services for the poor of the township:

(1) Prescription drugs, not to exceed a thirty (30) day supply at a time, as prescribed by an attending practitioner (as defined in IC 16-42-19-5) other than a veterinarian. However, if the prescription drugs are available only in a container that contains more than a thirty (30) day supply, the township trustee may pay for the available size.

(2) Office calls to a physician licensed under IC 25-22.5 or another medical provider.

(3) Dental care needed to relieve pain or infection or to repair cavities.

(4) Repair or replacement of dentures.

(5) Emergency room treatment that is of an emergency nature.

(6) Preoperation testing prescribed by an attending physician licensed under IC 25-22.5.

(7) Over-the-counter drugs prescribed by a practitioner (as defined in IC 16-42-19-5) other than a veterinarian.

(8) X-rays and laboratory testing as prescribed by an attending physician licensed under IC 25-22.5.

(9) Visits to a medical specialist when referred by an attending physician licensed under IC 25-22.5.

(10) Physical therapy prescribed by an attending physician licensed under IC 25-22.5.

(11) Eyeglasses.

(12) Repair or replacement of a prosthesis not provided for by other tax supported state or federal programs.

(13) Insulin and items needed to administer the biological, not to exceed a thirty (30) day supply at a time, in accordance with section 14 of this chapter. However, if the biologicals are available only in a container that contains more than a thirty (30) day supply, the township trustee may pay for the available size.

(d) The township trustee may establish a list of approved medical providers to provide medical services to the poor of the township. Any medical provider who:

(1) can provide the particular medical services within the scope of the provider's license issued under IC 25; and

(2) is willing to provide the medical services for the charges established by the township trustee; is entitled to be included on the list.

(e) Unless prohibited by federal law, a township trustee who:

(1) provides to an individual medical assistance that is eligible for payment under any medical program described in subsection (b) for which payments are administered by an agency of the state during the pendency of the individual's successful application for the program; and

(2) submits a timely and proper claim to the agency;

is eligible for reimbursement by the agency to the same extent as any medical provider.

(f) If a township trustee provides medical assistance for medical services provided to an individual who is subsequently determined to be eligible for Medicaid:

(1) the township trustee shall notify the medical provider that provided the medical services of the individual's eligibility; and

(2) not later than thirty (30) days after the medical provider receives the notice under subdivision (1), the medical provider shall file a claim for reimbursement with the office.

(g) A medical provider that is reimbursed under subsection (f) shall, not later than thirty (30) days after receiving the reimbursement, pay to the township trustee the lesser of:

(1) the amount of medical assistance received from the trustee to an individual; or

(2) the amount reimbursed by Medicaid to the medical provider.

As added by P.L.2-1992, SEC.14. Amended by P.L.51-1996, SEC.54; P.L.262-2003, SEC.4.

IC 12-20-16-12

Sec. 12. (a) This section does not apply if the county coroner assumes jurisdiction of an unclaimed body under IC 36-2-14-16.

(b) If:

(1) an individual dies in a township without leaving:

(A) money;

(B) real or personal property;

- (C) other assets that may be liquidated; or
- (D) other means necessary to defray funeral expenses; and
- (2) the individual is not a resident of another township in Indiana; the township trustee, as administrator of poor relief, shall provide a person to superintend and authorize either the funeral and burial or cremation of the deceased individual. If the township trustee determines that the deceased individual is a resident of another township in Indiana, the township trustee shall notify the trustee of that township, who shall then provide a person to superintend and authorize either the funeral and burial or cremation of the deceased individual.
- (c) The necessary and reasonable expenses of the funeral and burial or cremation, including a burial plot, shall be paid in the same manner as other claims for poor relief. A trustee shall determine the cost for the items and services required by law for the funeral and burial of an individual, including a burial plot, and for the cremation of an individual, and include in the township's poor relief standards the maximum funeral and burial or cremation amount to be paid from poor relief funds. The trustee may deduct from the maximum amount the following:
 - (1) Any monetary benefits that the deceased individual is entitled to receive from a state or federal program.
 - (2) Any money that another person provides on behalf of the deceased individual.
- (d) If an individual described in subsection (b) is a resident of a state institution at the time of the individual's death, the division that has administrative control of the state institution shall reimburse the township trustee for the necessary and reasonable expenses of the funeral and burial or cremation of the deceased individual. The township trustee shall submit to the division that has administrative control of the state institution an itemized claim for reimbursement of the necessary and reasonable funeral and burial or cremation expenses incurred by the township trustee.
- (e) If an individual described in subsection (b) is a resident of a special institution governed by IC 16-33 at the time of the individual's death, the state department of health shall reimburse the township trustee for the necessary and reasonable expenses of the funeral and burial or cremation of the deceased individual. The township trustee shall submit to the state department of health an itemized claim for reimbursement of the necessary and reasonable funeral and burial or cremation expenses incurred by the township trustee.
- (f) A township trustee who provides funeral and burial or cremation benefits to a deceased individual is entitled to a first priority claim, to the extent of the cost of the funeral and burial or cremation benefits paid by the township trustee, against any money or other personal property held by the coroner under IC 36-2-14-11.
- (g) The township trustee may not cremate a deceased individual if:
 - (1) the deceased individual; or
 - (2) a surviving family member of the deceased individual; has objected in writing to cremation.
- (h) If a township trustee provides a funeral under this section, the cost of the funeral may not be more than the cost of the least expensive funeral, including any necessary merchandise and embalming, available from the funeral director under the funeral director's price list disclosed to the Federal Trade Commission. *As added by P.L.2-1992, SEC.14. Amended by P.L.162-1995, SEC.1; P.L.51-1996, SEC.61.*

IC 12-20-16-14

Insulin

Sec. 14. The township trustee is authorized to provide insulin to individuals who are in need of insulin treatment and who are financially unable to purchase the insulin, upon application of a physician licensed under IC 25-22.5 or an advanced practice nurse who is licensed under IC 25-23 and who meets the requirements of IC 25-23-1-11 and IC 25-23-1-19.5. However, an application submitted by a physician or an advanced practice nurse under this section must meet the requirements of IC 16-41-19-4.

As added by P.L.2-1992, SEC.14. Amended by P.L.262-2003, SEC.

IC 12-21

ARTICLE 21. DIVISION OF MENTAL HEALTH

IC 12-21-1

Chapter 1. Establishment of Division

IC 12-21-1-1

Sec. 1. The division of mental health is established to apply the division's resources to ensure that Indiana citizens have access to appropriate mental health and addiction services that promote individual self-sufficiency.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.26.

IC 12-21-1-2

Sec. 2. IC 12-8-8 applies to the division.

As added by P.L.2-1992, SEC.15.

IC 12-21-1-3

Sec. 3. The division is composed of the following:

- (1) The director.
- (2) The division of mental health advisory council.
- (3) Other personnel necessary for the performance of the functions imposed upon the division under law.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.27.

IC 12-21-2

Chapter 2. Director of Division

IC 12-21-2-1

Sec. 1. The division shall be administered by a director appointed under IC 12-8-8-1.

As added by P.L.2-1992, SEC.15.

IC 12-21-2-2

Sec. 2. IC 12-8-8 applies to the director.

As added by P.L.2-1992, SEC.15.

IC 12-21-2-3

Sec. 3. (a) In addition to the general authority granted to the director under IC 12-8-8, the director shall do the following:

- (1) Organize the division, create the appropriate personnel positions, and employ personnel necessary to discharge the statutory duties and powers of the division or a bureau of the division.
- (2) Subject to the approval of the state personnel department, establish personnel qualifications for all deputy directors, assistant directors, bureau heads, and superintendents.
- (3) Subject to the approval of the budget director and the governor, establish the compensation of all deputy directors, assistant directors, bureau heads, and superintendents.
- (4) Study the entire problem of mental health, mental illness, and addictions existing in Indiana.
- (5) Adopt rules under IC 4-22-2 for the following:
 - (A) Standards for the operation of private institutions that are licensed under IC 12-25 for the diagnosis, treatment, and care of individuals with psychiatric disorders, addictions, or other abnormal mental conditions.
 - (B) Licensing supervised group living facilities described in IC 12-22-2-3 for individuals who are mentally ill.
 - (C) Certifying community residential programs described in IC 12-22-2-3 for individuals who are mentally ill.
 - (D) Certifying community mental health centers to operate in Indiana.
 - (E) Establish exclusive geographic primary service areas for community mental health centers. The rules must include the following:
 - (i) Criteria and procedures to justify the change to the boundaries of a community mental health center's primary service area.
 - (ii) Criteria and procedures to justify the change of an assignment of a community mental health center to a primary service area.
 - (iii) A provision specifying that the criteria and procedures determined in items (i) and (ii) must include an option for the county and the community mental health center to initiate a request for a change in primary

service area or provider assignment.

(iv) A provision specifying the criteria and procedures determined in items (i) and (ii) may not limit an eligible consumer's right to choose or access the services of any provider who is certified by the division of mental health and addiction to provide public supported mental health services.

(6) Institute programs, in conjunction with an accredited college or university and with the approval, if required by law, of the commission for higher education under IC 20-12-0.5, for the instruction of students of mental health and other related occupations. The programs may be designed to meet requirements for undergraduate and postgraduate degrees and to provide continuing education and research.

(7) Develop programs to educate the public in regard to the prevention, diagnosis, treatment, and care of all abnormal mental conditions.

(8) Make the facilities of the Larue D. Carter Memorial Hospital available for the instruction of medical students, student nurses, interns, and resident physicians under the supervision of the faculty of the Indiana University School of Medicine for use by the school in connection with research and instruction in psychiatric disorders.

(9) Institute a stipend program designed to improve the quality and quantity of staff that state institutions employ.

(10) Establish, supervise, and conduct community programs, either directly or by contract, for the diagnosis, treatment, and prevention of psychiatric disorders.

(11) Adopt rules under IC 4-22-2 concerning the records and data to be kept concerning individuals admitted to state institutions, community mental health centers, or managed care providers.

(12) Establish, maintain, and reallocate before July 1, 1996, one-third (1/3), and before January 1, 1998, the remaining two-thirds (2/3) of the following:

(A) long term care service settings; and

(B) state operated long term care inpatient beds;

designed to provide services for patients with long term psychiatric disorders as determined by the quadrennial actuarial study under IC 12-21-5-1.5(9). A proportional number of long term care service settings and inpatient beds must be located in an area that includes a consolidated city and its adjacent counties.

(13) Compile information and statistics concerning the ethnicity and gender of a program or service recipient.

(14) Establish standards for each element of the continuum of care for community mental health centers and managed care providers.

(b) As used in this section, "long term care service setting" means the following:

(1) The anticipated duration of the patient's mental health setting is more than twelve (12) months.

(2) Twenty-four (24) hour supervision of the patient is available.

(3) A patient in the long term care service setting receives:

(A) active treatment if appropriate for a patient with a chronic and persistent mental disorder or chronic addictive disorder;

(B) case management services from a state approved provider; and

(C) maintenance of care under the direction of a physician.

(4) Crisis care is available.

(c) Funding for services under subsection (a)(12) shall be provided by the division through the reallocation of existing appropriations. The need of the patients is a priority for services. The division shall adopt rules to implement subsection (a)(12) before July 1, 1995.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.28; P.L.142-1995, SEC.4; P.L.111-1997, SEC.3; P.L.215-2001, SEC.56; P.L.79-2002, SEC.1.

IC 12-21-2-4

Sec. 4. Subject to IC 12-26-2-9, the services provided under community programs under section 3(10) of this chapter must be available to any person upon a court order under IC 12-26.

As added by P.L.2-1992, SEC.15.

IC 12-21-2-5

Delegation of duties or powers; final decision requirement; exemption

Sec. 5. (a) Subject to subsection (b), the director may delegate statutory duties or powers of the division, a bureau of the division, the director, or other statutorily created personnel.

(b) If the director decides that a final decision is to be made concerning the placement of a mentally ill

individual in a mental health facility, the final decision must be made:

- (1) by the director, if the director is a licensed psychiatrist or licensed psychologist; or
- (2) by a licensed psychiatrist or licensed psychologist who is delegated the authority by the director; in consultation with the patient's psychiatrist or psychologist.

(c) Subsection (b) does not apply to an initial placement designation made under IC 12-24-12-10(b).

As added by P.L.2-1992, SEC.15. Amended by P.L.25-2003, SEC.2; P.L.184-2003, SEC.12.

IC 12-21-2-6

(Repealed by P.L.40-1994, SEC.83.)

IC 12-21-2-7

Sec. 7. (a) The director may act for the division in entering into contracts for the disbursement of money and the providing of service.

(b) Before entering into a contract under this section, the director shall submit the contract to the attorney general for approval as to form and legality.

(c) A contract under this section must do the following:

- (1) Specify the services to be provided and the client populations to whom services must be provided.
- (2) Provide for a reduction in funding for the failure to comply with terms of the contract.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.29.

IC 12-21-2-8

Sec. 8. (a) The director shall develop a comprehensive system of monitoring, evaluation, and quality assurance for the continuum of care required by this chapter.

(b) The director shall determine to whom contracts are awarded, based on the following factors:

- (1) The continuity of services a contractor provides for patients.
- (2) The accessibility of a contractor's services to patients.
- (3) The acceptability of a contractor's services to patients.
- (4) A contractor's ability to focus services on building the self-sufficiency of the patient.

(c) This subsection applies to the reimbursement of contract payments to managed care providers.

Payments must be determined prospectively in accordance with generally accepted accounting principles and actuarial principles recognizing costs incurred by efficiently and economically operated programs that:

- (1) serve mentally ill or substance abuse patients; and
- (2) are subject to quality and safety standards and laws.

(d) Before entering into a contract under this section, the director shall submit the contract to the attorney general for approval as to form and legality.

(e) A contract under this section must do the following:

(1) Specify:

- (A) the work to be performed; and
- (B) the patient populations to whom services must be provided.

(2) Provide for a reduction in funding or termination of the contract for failure to comply with terms of the contract.

(3) Require that the contractor meet the standards set forth in rules adopted by the division of mental health under IC 4-22-2.

(4) Require that the contractor participate in the division's evaluation process.

(5) For any service for which the division chooses to contract on a per diem basis, the per diem reimbursement shall be determined under subsection (c) for the contractor's reasonable cost of providing services.

(6) In contracts with capitated payment provisions, provide that the contractor's cost of purchasing stop-loss insurance for the patient populations to be served in amounts and with limits customarily purchased by prepaid health care plans must be:

- (A) included in the actuarial determination of the capitated payment amounts; or
- (B) separately paid to the contractor by the division.

(7) Provide that a contract for enumerated services granted by the division under this section to an approved managed care provider may not create or confer upon the managed care provider liability or responsibility for care or services beyond those services supported by the contract.

As added by P.L.40-1994, SEC.30.

IC 12-21-2-9

(Repealed by P.L.40-1994, SEC.85.)

IC 12-21-3

Chapter 3. Personnel of Division

IC 12-21-3-1

Sec. 1. Except as provided in IC 4-15-2-3.8, IC 4-15-2 applies to all employees of the division.

As added by P.L.2-1992, SEC.15.

IC 12-21-3-2

Sec. 2. (a) If a member, an officer, or an employee of the division is accused of an offense or sued for civil damages because of an act performed within the course of the individual's employment or because of an act performed under the authority or order of a superior officer, the attorney general shall defend the individual in an action for civil damages. If the action or proceeding is criminal in nature, the governor shall designate counsel to represent and defend the accused and the state is financially responsible for the expense of the defense.

(b) This section does not do either of the following:

(1) Deprive an individual of the right to select defense counsel of the individual's choice at the individual's expense.

(2) Relieve a person from responsibility for civil damages.

As added by P.L.2-1992, SEC.15.

IC 12-21-3-3

Sec. 3. (a) An officer or employee of the division shall, as the director requires, furnish a bond or crime policy endorsed to include faithful performance in the amount the director determines payable to the state and conditioned upon the faithful performance of the individual's duties.

(b) The bonds or crime policies are subject to approval by the insurance commissioner and shall be filed in the office of the secretary of state.

(c) The premiums for the bonds are payable from the money of the division.

(d) The director may secure a standard form blanket bond or crime insurance policy endorsed to include faithful performance covering all or any part of the officers and employees of the department. However, the blanket bond or crime insurance policy must be in an amount not less than fifty thousand dollars (\$50,000).

(e) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by P.L.2-1992, SEC.15. Amended by P.L.49-1995, SEC.8.

IC 12-21-3-4

Sec. 4. The director, deputy directors, bureau heads of the division, and the superintendents of the state institutions administered by the division may administer oaths, take depositions, and certify to official acts.

As added by P.L.2-1992, SEC.15.

IC 12-21-4

Chapter 4. Division Advisory Council

IC 12-21-4-1

Sec. 1. As used in this chapter, "council" refers to the division of mental health advisory council established by this chapter.

As added by P.L.2-1992, SEC.15.

IC 12-21-4-2

Sec. 2. The division of mental health advisory council is established.

As added by P.L.2-1992, SEC.15.

IC 12-21-4-3

Sec. 3. The council consists of the following eleven (11) members:

(1) The director.

(2) Ten (10) individuals:

(A) appointed by the secretary; and

(B) who have a recognized knowledge of or interest in the programs administered by the division.

As added by P.L.2-1992, SEC.15.

IC 12-21-4-4

Sec. 4. Each member of the council appointed under section 3(2) of this chapter has a fixed term as

provided in IC 12-8-2-4.

As added by P.L.2-1992, SEC.15.

IC 12-21-4-5

Sec. 5. The director serves as presiding officer of the council.

As added by P.L.2-1992, SEC.15.

IC 12-21-4-6

Sec. 6. The council shall meet at least monthly and is subject to special meetings at the call of the presiding officer.

As added by P.L.2-1992, SEC.15.

IC 12-21-4-7

Sec. 7. IC 12-8-2 applies to the council.

As added by P.L.2-1992, SEC.15.

IC 12-21-5

Chapter 5. Duties of Division

IC 12-21-5-1

Sec. 1. The division is responsible for administering the following:

- (1) This article.
- (2) IC 12-22.
- (3) IC 12-23.
- (4) IC 12-25.
- (5) Other programs the division is required to administer by statute.
- (6) State institutions listed in IC 12-24-1-3.

As added by P.L.2-1992, SEC.15. Amended by P.L.40-1994, SEC.32.

IC 12-21-5-1.5

Sec. 1.5. The division shall do the following:

- (1) Adopt rules under IC 4-22-2 to establish and maintain criteria to determine patient eligibility and priority for publicly supported mental health and addiction services. The rules must include criteria for patient eligibility and priority based on the following:
 - (A) A patient's income.
 - (B) A patient's level of daily functioning.
 - (C) A patient's prognosis.
- (2) Within the limits of appropriated funds, contract with a network of managed care providers to provide a continuum of care in an appropriate setting that is the least restrictive to individuals who qualify for the services.
- (3) Require the providers of services funded directly by the division to be in good standing with an appropriate accrediting body as required by rules adopted under IC 4-22-2 by the division.
- (4) Develop a provider profile that must be used to evaluate the performance of a managed care provider and that may be used to evaluate other providers of mental health services that access state administered funds, including Medicaid, and other federal funding. A provider's profile must include input from consumers, citizens, and representatives of the mental health ombudsman program (IC 12-27-9) regarding the provider's:
 - (A) information provided to the patient on patient rights before treatment;
 - (B) accessibility, acceptability, and continuity of services provided or requested; and
 - (C) total cost of care per individual, using state administered funds.
- (5) Ensure compliance with all other performance criteria set forth in a provider contract. In addition to the requirements set forth in IC 12-21-2-7, a provider contract must include the following:
 - (A) A requirement that the standards and criteria used in the evaluation of care plans be available and accessible to the patient.
 - (B) A requirement that the provider involve the patient in the choice of and preparation of the treatment plan to the greatest extent feasible.
 - (C) A provision encouraging the provider to intervene in a patient's situation as early as possible, balancing the patient's right to liberty with the need for treatment.
 - (D) A requirement that the provider set up and implement an internal appeal process for the patient.
- (6) Establish a toll free telephone number that operates during normal business hours for individuals to

make comments to the division in a confidential manner regarding services or service providers.

(7) Develop a confidential system to evaluate complaints and patient appeals received by the division of mental health and to take appropriate action regarding the results of an investigation. A managed care provider is entitled to request and to have a hearing before information derived from the investigation is incorporated into the provider's profile. Information contained within the provider profile is subject to inspection and copying under IC 5-14-3-3.

(8) Submit a biennial report to the governor and legislative council that includes an evaluation of the continuum of care.

(9) Conduct an actuarial analysis July 1, 1994, July 1, 1996, and then every four (4) years beginning July 1, 2000.

(10) Annually determine sufficient rates to be paid for services contracted with managed care providers who are awarded a contract under IC 12-21-2-7.

(11) Take actions necessary to assure the quality of services required by the continuum of care under this chapter.

(12) Incorporate the results from the actuarial analysis in subdivision (9) to fulfill the responsibilities of this section.

As added by P.L.40-1994, SEC.33.

IC 12-21-5-2

Sec. 2. The division is responsible for the following:

(1) The planning, research, and development of programs and methods for the education and treatment of emotionally disturbed children.

(2) The coordination of governmental services, activities, and programs in Indiana relating to such children.

(3) The administration of the state supported services concerned with such children.

(4) The preparation of the annual report required by IC 7.1-6-2-5.

As added by P.L.2-1992, SEC.15. Amended by P.L.256-1996, SEC.3.

IC 12-21-5-3

Sec. 3. IC 20-1-6-2.1 applies to the operation of each education program for children with disabilities (as defined in IC 20-1-6-1) conducted by a state owned and operated mental health institution or furnished under an agreement with the division.

As added by P.L.2-1992, SEC.15. Amended by P.L.23-1993, SEC.55.

IC 12-21-6 Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-22

ARTICLE 22. SERVICES FOR PERSONS WITH

MENTAL ILLNESS

IC 12-22-1

Chapter 1. Respite Care for Persons with Mental Illness

IC 12-22-1-1

Sec. 1. As used in this chapter, "respite care" means temporary institutional or noninstitutional care:

(1) for a mentally ill individual who:

(A) lives at home; and

(B) is cared for by the individual's family or other caretaker; and

(2) that is provided because the family or caretaker is temporarily unable or unavailable to provide needed care.

As added by P.L.2-1992, SEC.16.

IC 12-22-1-2

Sec. 2. The division may institute a program of respite care for mentally ill individuals. The program may include the following:

(1) Training of private individuals to enable the individuals to provide respite care in the individuals' own homes or in the homes of mentally ill individuals.

(2) Certifying residential facilities such as group homes, health facilities (as defined in IC 16-18-2-167), community residential facilities licensed under IC 12-28-5, and other private homes as suitable for

providing respite care under this chapter.

(3) Contracting for the provision of respite care.

(4) Working with other state and local agencies to develop a coordinated program that serves the respite care needs of mentally ill individuals throughout Indiana.

As added by P.L.2-1992, SEC.16. Amended by P.L.2-1993, SEC.112.

IC 12-22-1-3

Sec. 3. (a) If:

(1) a parent or guardian of a mentally ill individual requests the division to assist the parent or guardian in obtaining respite care for the mentally ill individual; and

(2) the individual has been cared for in the home of the individual's parent or guardian for the preceding three (3) months;

the division shall determine if there is a person who can provide appropriate respite care for the individual or a residential facility that has the staff and bed space and can provide the services the individual needs during the period of respite care. If the division determines that such a person or facility exists, the division shall inform the parent or guardian and, if needed, shall provide assistance to the parent or guardian in making the arrangements for respite care.

(b) If:

(1) the division determines that such a person or residential facility does not exist or if the parent or guardian does not want to use the services identified by the division; and

(2) an appropriate state institution is located in the mentally ill individual's geographic area; the division may place the mentally ill individual in a state institution.

As added by P.L.2-1992, SEC.16.

IC 12-22-1-4

Sec. 4. (a) Each state institution administered by the division shall provide respite care.

(b) A state institution administered by the division is not required to accept a mentally ill individual for respite care if the superintendent determines that:

(1) there is insufficient money, staff, or bed space; or

(2) the state institution is incapable of providing the services that the individual needs during the individual's stay.

(c) The parent or guardian of a mentally ill individual may accept or reject a suggested placement under this section.

As added by P.L.2-1992, SEC.16.

IC 12-22-1-5

Sec. 5. The division may subsidize a part of the reasonable costs of respite care provided under section 3(a) of this chapter if the following conditions exist:

(1) The mentally ill individual is not eligible under the Medicaid program.

(2) The division does not subsidize any part of the costs of more than twenty (20) days of respite care provided to an individual in a calendar year.

As added by P.L.2-1992, SEC.16.

IC 12-22-1-6

Sec. 6. The director may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.2-1992, SEC.16.

IC 12-22-2

Chapter 2. Community Residential Programs

IC 12-22-2-1

Sec. 1. The division shall plan, develop, and administer programs of community based residential alternatives to placement in state institutions and nursing facilities licensed under IC 16-28 for individuals who are mentally ill.

As added by P.L.2-1992, SEC.16. Amended by P.L.78-1992, SEC.25; P.L.2-1993, SEC.113.

IC 12-22-2-2

Sec. 2. The programs described in section 1 of this chapter must, to the extent feasible, simulate a homelike atmosphere with patterns and conditions of everyday life that are as close as possible to normal.

As added by P.L.2-1992, SEC.16.

IC 12-22-2-3

Sec. 3. The programs consist of the following, which are listed in the order of the most restrictive setting to the least restrictive setting:

(1) Sub-acute stabilization programs that serve at least four (4) individuals and not more than fifteen (15) individuals, and if the program serves mentally ill individuals, to provide sub-acute stabilization services to individuals on a short term basis. However, the director may waive the limitation for a sub-acute stabilization program.

(2) Supervised group living programs, which serve at least four (4) individuals and not more than fifteen (15) individuals, if the program serves mentally ill individuals. However, the director may waive the limitation for a supervised group living program that:

(A) was in existence on June 30, 1985; or

(B) provides long term care to mentally ill individuals after June 30, 1985.

The program and the individuals served by the program shall be closely supervised by trained individuals.

(3) Alternative family programs, which serve not more than six (6) individuals who reside with an unrelated householder. The householder must be instructed on the needs of individuals in the program.

(4) Semi-independent living programs, which serve not more than six (6) individuals who require only limited supervision. The supervision must be on a regular basis and take into account emergency needs of the individuals in the program.

(5) Independent living support services for individuals residing independently with the individuals' families or with relatives. The services are temporary or provided intermittently.

(6) Supported living service arrangements to meet the unique needs of individuals in integrated settings.

As added by P.L.2-1992, SEC.16. Amended by P.L.78-1992, SEC.26; P.L.62-1993, SEC.5; P.L.6-1995, SEC.12.

IC 12-22-2-4

Sec. 4. (a) Except as provided in subsection (b), an individual may not be placed in a program described in section 3(1), 3(2), or 3(3) of this chapter until after an evaluation approved by the division indicates the following:

(1) Placement in a particular program of services is appropriate.

(2) Treatment and crisis intervention services needed by a mentally ill individual are available.

(b) Emergency placements of not more than sixty (60) days may be made without an evaluation.

As added by P.L.2-1992, SEC.16.

IC 12-22-2-5

Sec. 5. To the extent that programs described in section 3 of this chapter are available and meet an individual's needs, an individual should be placed in a program that is the least restrictive.

As added by P.L.2-1992, SEC.16.

IC 12-22-2-6

Sec. 6. The division may continue the placement of a mentally ill individual in a child caring institution licensed under IC 12-17.4, a county home regulated by IC 12-30-3, or a health facility licensed under IC 16-28 if:

(1) the individual was placed in the institution, home, or facility before July 1, 1985; and

(2) the placement continues to be appropriate for the individual, as determined by the division.

As added by P.L.2-1992, SEC.16. Amended by P.L.81-1992, SEC.32; P.L.2-1993, SEC.114.

IC 12-22-2-7

Sec. 7. The division may contract with any of the following to provide the programs described in section 3 of this chapter:

(1) Community mental health centers.

(2) Corporations.

(3) Individuals.

(4) Managed care providers.

As added by P.L.2-1992, SEC.16. Amended by P.L.6-1995, SEC.13.

IC 12-22-2-8

Sec. 8. (a) If the superintendent of a state institution requests, the division shall determine if an individual who is being discharged from the state institution or placed on outpatient status by the state institution should be given preference for placement in a community residential program described in section 3 of this chapter.

(b) A determination of the division under subsection (a) is binding upon an individual who enters into a

contract under section 7 of this chapter.

As added by P.L.2-1992, SEC.16.

IC 12-22-2-9

Sec. 9. (a) Except as specified by the terms of the Medicaid program:

- (1) an individual who receives services under this chapter; and
- (2) the parents of the individual if the individual is less than eighteen (18) years of age; are liable for the cost for the services.

(b) The cost shall be established under rules adopted by the director under IC 4-22-2.

As added by P.L.2-1992, SEC.16.

IC 12-22-2-10

Sec. 10. An individual who is:

- (1) mentally ill; and
- (2) eligible under the Medicaid program; remains eligible for Medicaid if transferred to a community residential program described in section 3(1), 3(2), 3(3), or 3(4) of this chapter.

As added by P.L.2-1992, SEC.16. Amended by P.L.62-1993, SEC.6.

IC 12-22-2-11

Sec. 11. (a) An entity may not:

- (1) operate a program described in IC 12-22-3; or

(2) hold itself out as operating;

(A) a program described in IC 12-22-3; or

(B) a group home for individuals who are mentally ill;

unless the entity is licensed or certified by the division of mental health.

(b) The division of mental health shall investigate a report of:

- (1) an unlicensed facility housing a community residential program described in section 3(1), 3(2), and 3(3) of this chapter;

(2) an uncertified operator of a community residential program described in section 3(1), 3(2), and 3(3) of this chapter; or

(3) a licensed or certified entity's noncompliance with this article;

and report the division's findings to the attorney general.

(c) The attorney general may do the following:

- (1) Seek the issuance of a search warrant to assist in an investigation under this section.

(2) File an action for injunctive relief to stop the operation of a facility described in subsection (b) if there is reasonable cause to believe that:

(A) the facility or the operator community residential program described in subsection (b) is operating without a required license or certification; or

(B) a licensed or certified entity's actions or omissions create an immediate danger of serious bodily injury to a mentally ill individual or an imminent danger to the health of a mentally ill individual.

(3) Seek in a civil action a civil penalty of not more than one hundred dollars (\$100) a day for each day a facility is operating:

(A) without a license or certification required by law; or

(B) with a license or certification required under this chapter, but is not in compliance with this article, IC 12-21-2-3, or

rules adopted under this article or IC 12-21-2-3.

(d) The division of mental health may provide for the removal of mentally ill individuals from facilities for the mentally ill described in subsection (c).

(e) There must be an opportunity for an informal meeting with the division of mental health after injunctive relief is ordered under this section.

(f) The civil penalties collected under this section must be deposited in the mental health centers fund (IC 6-7-1-32.1).

As added by P.L.111-1997, SEC.4.

IC 12-22-3

Chapter 3. Children's Mental Health

IC 12-22-3-1

Sec. 1. As used in this chapter, "bureau" refers to the children's mental health bureau.

As added by P.L.78-1992, SEC.27.

IC 12-22-3-2

Sec. 2. The children's mental health bureau is established within the division.

As added by P.L.78-1992, SEC.27.

IC 12-22-3-3

Sec. 3. The division director shall appoint a bureau head.

As added by P.L.78-1992, SEC.27.

IC 12-22-3-4

Sec. 4. The bureau head is responsible for the following:

- (1) Developing a definition and criteria for emotional disturbance and serious emotional disturbance.
- (2) Assessing current and projected needs for emotionally disturbed children and youth within geographic areas of Indiana.
- (3) Developing an annual plan for children's mental health services, including an implementation plan and fiscal requirements.
- (4) Developing the budget and budget requests for the bureau.
- (5) Implementing plans required under federal Public Law 99-660 (1986).
- (6) Developing and coordinating programs and services for prevention and family support.
- (7) Providing technical assistance and oversight of children's mental health programs and services within mental health facilities that are licensed or certified by the state.
- (8) Coordinating with the director of the division of family and children on matters concerning children with mental health needs.
- (9) Coordinating with other bureaus of the division.
- (10) Maintaining sufficient staff to carry out the duties of the bureau.

As added by P.L.78-1992, SEC.27.

IC 12-23

ARTICLE 23. ADDICTION SERVICES

IC 12-23-1

Chapter 1. Bureau of Addiction Services

IC 12-23-1-1

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-1-2

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-1-3

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-1-4

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-1-5

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-1-6

Sec. 6. The division has the following powers:

- (1) Promoting unified programs for education and research, prevention and control, diagnosis, and treatment of substance and gambling abuse based on comprehensive plans developed by the division.
- (2) Assuring compliance with state rules and federal regulations for substance abuse services programs and revoking authorization of the programs upon a determination that the programs do not comply with the rules and regulations.
- (3) Making agreements and contracts with:
 - (A) another department, authority, or agency of the state;
 - (B) another state;
 - (C) the federal government;

(D) a state or private university; or

(E) a public or private agency;

to effectuate the purposes of this article.

(4) Directly or by contract, approving and certifying facilities and services for the treatment, care, or rehabilitation of alcoholics, drug abusers, and compulsive gamblers in accordance with requirements established by the division and assigning or transferring individuals placed under the division's care or supervision to the facilities.

(5) Requiring, as a condition of operation, that each public and private treatment facility, except facilities and services created and funded under IC 12-23-14 that do not provide treatment and rehabilitation services, be certified according to standards established by the division.

(6) Maintaining a toll free telephone line that the public may use to obtain counseling and information about programs that help individuals with drug, alcohol, and gambling problems.

(7) Adopting rules under IC 4-22-2 to implement this article.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.34; P.L.54-1995, SEC.3; P.L.122-1997, SEC.1.

IC 12-23-1-7

Sec. 7. (a) Except as provided in subsection (b) and notwithstanding any other law, the division is the sole state authority authorized to:

(1) disburse grants, loans, or gifts made by the federal government or any other source to the state, state agencies, and subdivisions of the state; and

(2) review and approve grants or contracts made by the federal government to or with a local governmental unit or other public or private agency;

for alcoholism, compulsive gambling, or drug abuse prevention or for treatment in the field of addictions.

(b) Subsection (a) does not apply if the federal law regulating a grant, loan, or gift does not allow exclusive power and control over the disbursement of the grant, loan, or gift to be vested in a single state authority.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.35; P.L.54-1995, SEC.4.

IC 12-23-1-8

Sec. 8. Notwithstanding any other law, the division is the sole state authority authorized to disburse money appropriated to the division for a purpose described in section 6 of this chapter.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.36.

IC 12-23-1-9

Sec. 9. One-third (1/3) of the federal money earmarked for Drug Abuse and Alcohol Abuse/Alcoholics Efforts received for disbursement by the division shall be used for treatment programs that are not under the direction of a community mental health center or a state institution.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.37.

IC 12-23-1-10

Sec. 10. The division is the state authority primarily responsible for prevention, control, treatment and rehabilitation, education, research, and planning in the field of addictions. All other agencies of state and local government shall cooperate with the division to assist in the performance of the division's functions.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.38.

IC 12-23-1-11

Sec. 11. (a) This article does not repeal or modify Indiana law relating to the operation of a vehicle under the influence of liquor or drugs.

(b) IC 12-23-5, IC 12-23-6, IC 12-23-7, IC 12-23-8, and any other related provisions of this article shall be considered to be alternative

methods or procedures for the prosecution of alcoholics or drug abusers as criminals.

As added by P.L.2-1992, SEC.17.

IC 12-23-1-12

Sec. 12. (a) The division and the director shall enforce this article.

(b) The division or the director may bring an action at law or in equity to enforce any of the provisions of this article and the circuit and superior courts of the state have jurisdiction to compel or enforce the provisions of this article by prohibitory or mandatory injunction.

As added by P.L.2-1992, SEC.17.

IC 12-23-2

Chapter 2. Addiction Services Fund

IC 12-23-2-1

Sec. 1. As used in this chapter, "fund" refers to the addiction services fund established by section 2 of this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-2-2

Sec. 2. The addiction services fund is established for the deposit of excise taxes on alcoholic beverages as described in IC 7.1-4-11 and taxes on riverboat admissions under IC 4-33-12-6.

As added by P.L.2-1992, SEC.17. Amended by P.L.54-1995, SEC.5.

IC 12-23-2-3

Sec. 3. The money in the fund does not revert to any other fund at the close of a state fiscal year but remains in the fund unless the money is appropriated by the general assembly under section 5 of this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-2-4

Sec. 4. The treasurer of state may invest the money in the fund in the manner provided by law for investing money in the state general fund.

As added by P.L.2-1992, SEC.17.

IC 12-23-2-5

Sec. 5. The general assembly shall appropriate money from the addiction services fund solely for the purpose of funding programs:

- (1) that provide prevention services and intervention and treatment services for individuals who are psychologically or physiologically dependent upon alcohol or other drugs; and
- (2) for the prevention and treatment of gambling problems.

Programs funded by the addiction services fund must include the creation and maintenance of a toll free telephone line under IC 4-33-12-6-(f)(3) to provide the public with information about programs that provide help with gambling, alcohol, and drug addiction problems.

As added by P.L.2-1992, SEC.17. Amended by P.L.54-1995, SEC.6.

IC 12-23-2-6

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-2-7

Administrative costs associated with use of money from fund; limitation; reimbursing Indiana gaming commission

Sec. 7. (a) For each state fiscal year, the division may not spend more than an amount equal to five percent (5%) of the total amount received by the division from the fund established under section 2 of this chapter for the administrative costs associated with the use of money received from the fund.

(b) The division shall allocate at least twenty-five percent (25%) of the funds derived from the riverboat admissions tax under IC 4-33-12-6 to the prevention and treatment of compulsive gambling.

(c) The division shall reimburse the Indiana gaming commission for the costs incurred in administering a voluntary exclusion program established under the rules of the Indiana gaming commission. The division shall pay the reimbursement from funds derived from the riverboat admissions tax under IC 4-33-12-6.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.39; P.L.54-1995, SEC.7; P.L.143-2003, SEC.4.

IC 12-23-2-8

Sec. 8. (a) Except as provided in subsection (b), for each state fiscal year, the division shall distribute an amount equal to at least thirty-three percent (33%) of the total amount received by the division from the addiction services fund established by section 2 of this chapter during the immediately preceding fiscal year to local programs that provide prevention services and intervention and treatment services for individuals who are:

- (1) psychologically or physiologically dependent upon alcohol or other drugs; or
- (2) psychologically dependent on gambling.

(b) The amount described in subsection (a) may not be distributed to a county home, a local mental health program established under IC 12-29, or a state institution.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.40; P.L.54-1995, SEC.8.

IC 12-23-3 Repealed

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-4**Chapter 4. Reporting Requirements for Service Providers****IC 12-23-4-1**

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-4-2

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-4-3

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-4-4

(Repealed by P.L.40-1994, SEC.83.)

IC 12-23-4-5

Sec. 5. An entity may not maintain, operate, advertise, or conduct an alcoholism or a drug abuse treatment program in Indiana:

- (1) in violation of a statute, rule, or regulation; or
- (2) in a manner that creates a hazard to the mental or physical health of a participant or to the general public.

As added by P.L.2-1992, SEC.17.

IC 12-23-5**Chapter 5. Conditional Deferment of Judicial Proceedings After Commission of Misdemeanor or Infraction****IC 12-23-5-0.5****Applicability after June 30, 2005**

Sec. 0.5. After June 30, 2005, this chapter does not apply to a person who:

- (1) holds a commercial driver's license; and
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

As added by P.L.219-2003, SEC.10.

IC 12-23-5-1**Alcohol and substance abuse cases; judicial notice**

Sec. 1. (a) In a criminal proceeding for a misdemeanor or infraction in which:

- (1) the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense; or

(2) the defendant's mental illness other than substance abuse, is a contributing factor;
the court may take judicial notice of the fact that proper early intervention, medical, advisory, or rehabilitative treatment of the defendant is likely to decrease the defendant's tendency to engage in antisocial behavior.

(b) For purposes of IC 11-12-3.5, in a criminal proceeding in which:

- (1) the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense; or

(2) the defendant's mental illness other than substance abuse, is a contributing factor;
the court shall take judicial notice of the fact that proper early intervention, medical, advisory, or rehabilitative treatment of the defendant is likely to decrease the defendant's tendency to engage in antisocial behavior.

As added by P.L.2-1992, SEC.17. Amended by P.L.224-2003, SEC.125.

IC 12-23-5-2

Sec. 2. (a) Subject to section 8 of this chapter, before conviction a court may, with the consent of the defendant and the prosecuting attorney, conditionally defer the proceedings described in section 1 of this chapter for up to one (1) year.

(b) The court may do the following:

- (1) Order the defendant to satisfactorily complete an alcohol and drug services treatment program if the

court makes a determination under section 1(1) of this chapter.

(2) Order the defendant to undergo treatment for the defendant's mental illness if the court makes a determination under section 1(2) of this chapter.

(3) Impose other appropriate conditions upon the defendant.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-3

Sec. 3. If a defendant violates a condition imposed by the court, the court may order the criminal proceedings to be resumed.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-4

Sec. 4. Except as provided in section 8 of this chapter, if a defendant fulfills the conditions set by the court, the court shall dismiss the charges against the defendant.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-5

Sec. 5. (a) Subject to subsection (b), if a court enters an order conditionally deferring charges that involve a violation of IC 9-30-5, the court shall do the following:

(1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than two (2) years.

(2) Impose other appropriate conditions.

(b) A defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30) days under IC 9-30-6-9.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-6

Sec. 6. If a defendant is convicted in a proceeding described in section 1 of this chapter and the court places the defendant on probation, the court may do the following:

(1) Refer the defendant to an alcohol and drug services treatment program if the court makes a determination under section 1(1) of this chapter.

(2) Refer the defendant to an appropriate therapy program if the court makes a determination under section 1(2) of this chapter.

(3) Require the defendant to undergo treatment as a condition of probation.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-7

Sec. 7. Prosecution may be deferred under sections 2 through 5 of this chapter if a defendant has been charged with a misdemeanor or infraction in which the use of alcohol or drugs was a contributing factor or material element of the offense or the defendant's mental illness was a contributing factor, unless at least one (1) of the following exists:

(1) The offense involves death or serious bodily injury.

(2) The defendant has a record of at least two (2) prior convictions of forcible felonies (as defined in IC 35-41-1).

(3) Other criminal proceedings, not arising out of the same incident, alleging commission of a felony are pending against the defendant.

(4) The defendant is on probation or parole and the appropriate parole or probation authority does not consent to the defendant's participation.

(5) The defendant fails to meet additional eligibility requirements imposed by the court.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-8

Sec. 8. If:

(1) a defendant was previously charged under IC 9-4-1-54 (before its repeal September 1, 1983), IC 9-11-2 (before its repeal July 1, 1991), or IC 9-30-5; and

(2) the previous charges were dismissed under this chapter;

the individual is not eligible to have subsequent charges under IC 9-30-5 dismissed under this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-9

Sec. 9. A court may not order a defendant or a convicted individual to complete an alcohol and drug services treatment program under section 2(b)(1) or 6(1) of this chapter unless the court determines that the program in which the individual is to participate is administered by

a court under IC 12-23-14 or is certified by the division of mental health.
As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.41.

IC 12-23-5

Chapter 5. Conditional Deferment of Judicial Proceedings After Commission of Misdemeanor or Infraction

IC 12-23-5-1

Sec. 1. In a criminal proceeding for a misdemeanor or infraction in which:

- (1) the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense; or
 - (2) the defendant's mental illness other than substance abuse, is a contributing factor;
- the court may take judicial notice of the fact that proper early intervention, medical, advisory, or rehabilitative treatment of the defendant is likely to decrease the defendant's tendency to engage in antisocial behavior.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-2

Sec. 2. (a) Subject to section 8 of this chapter, before conviction a court may, with the consent of the defendant and the prosecuting attorney, conditionally defer the proceedings described in section 1 of this chapter for up to one (1) year.

(b) The court may do the following:

- (1) Order the defendant to satisfactorily complete an alcohol and drug services treatment program if the court makes a determination under section 1(1) of this chapter.
- (2) Order the defendant to undergo treatment for the defendant's mental illness if the court makes a determination under section 1(2) of this chapter.
- (3) Impose other appropriate conditions upon the defendant.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-3

Sec. 3. If a defendant violates a condition imposed by the court, the court may order the criminal proceedings to be resumed.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-4

Sec. 4. Except as provided in section 8 of this chapter, if a defendant fulfills the conditions set by the court, the court shall dismiss the charges against the defendant.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-5

Sec. 5. (a) Subject to subsection (b), if a court enters an order conditionally deferring charges that involve a violation of IC 9-30-5, the court shall do the following:

- (1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than two (2) years.
- (2) Impose other appropriate conditions.

(b) A defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30) days under IC 9-30-6-9.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-6

Sec. 6. If a defendant is convicted in a proceeding described in section 1 of this chapter and the court places the defendant on probation, the court may do the following:

- (1) Refer the defendant to an alcohol and drug services treatment program if the court makes a determination under section 1(1) of this chapter.
- (2) Refer the defendant to an appropriate therapy program if the court makes a determination under section 1(2) of this chapter.
- (3) Require the defendant to undergo treatment as a condition of probation.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-7

Sec. 7. Prosecution may be deferred under sections 2 through 5 of this chapter if a defendant has been charged with a misdemeanor or infraction in which the use of alcohol or drugs was a contributing factor or material element of the offense or the defendant's mental illness was a contributing factor, unless at least

one (1) of the following exists:

- (1) The offense involves death or serious bodily injury.
- (2) The defendant has a record of at least two (2) prior convictions of forcible felonies (as defined in IC 35-41-1).
- (3) Other criminal proceedings, not arising out of the same incident, alleging commission of a felony are pending against the defendant.
- (4) The defendant is on probation or parole and the appropriate parole or probation authority does not consent to the defendant's participation.
- (5) The defendant fails to meet additional eligibility requirements imposed by the court.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-8

Sec. 8. If:

- (1) a defendant was previously charged under IC 9-4-1-54 (before its repeal September 1, 1983), IC 9-11-2 (before its repeal July 1, 1991), or IC 9-30-5; and
 - (2) the previous charges were dismissed under this chapter;
- the individual is not eligible to have subsequent charges under IC 9-30-5 dismissed under this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-5-9

Sec. 9. A court may not order a defendant or a convicted individual to complete an alcohol and drug services treatment program under section 2(b)(1) or 6(1) of this chapter unless the court determines that the program in which the individual is to participate is administered by a court under IC 12-23-14 or is certified by the division of mental health.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.41.

IC 12-23-7

Chapter 7. Continuance of Prosecution After Felony Charge

IC 12-23-7-1

Sec. 1. If:

- (1) a court has reason to believe that an individual charged with a felony is a drug abuser or an alcoholic or the individual states that the individual is a drug abuser or an alcoholic; and
- (2) the court finds that the individual is eligible to make the request for treatment provided for in IC 12-23-6;

the court may advise the individual that the prosecution of the charge may be continued if the individual requests to undergo treatment and is accepted for treatment by the division.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-2

Sec. 2. In offering an individual an opportunity to request treatment, the court shall advise the individual of the following:

- (1) If the individual requests to undergo treatment and is accepted, the individual may be placed under the supervision of the division for a period not to exceed three (3) years.
- (2) During treatment the individual may be confined in an institution or, at the discretion of the division, the individual may be released for treatment or supervised aftercare in the community.
- (3) If the individual completes treatment, the charge will be dismissed, but if the individual does not complete treatment, prosecution on the charge may be resumed.
- (4) A request constitutes a formal waiver of the right to a speedy trial.
- (5) To make a request the individual must waive a jury trial and consent to a trial by the court or must enter a guilty plea, with the general finding to be entered by the court to be deferred until the time that prosecution may be resumed.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-3

Sec. 3. If an eligible individual requests to undergo treatment, the court may order the division to conduct an examination of the individual to determine whether the individual is a drug abuser or an alcoholic and is likely to be rehabilitated through treatment.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-4

Sec. 4. The court may deny a request if after conducting a pretrial or preplea investigation the court finds the individual would not qualify under the criteria of the court to be released on probation if convicted.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-5

IC 12-23-7-5 Sec. 5. If a request is granted, the court shall do the following:

- (1) Certify to the division that the individual may request treatment.
- (2) Transmit to the division the following:
 - (A) A summary of the criminal history of the individual.
 - (B) A copy of the report of all background investigations conducted by or for the court.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-6

Sec. 6. Within a reasonable time after receiving an order to conduct an examination, together with the court's certification of eligibility and required supporting documents, the division shall report to the court the results of the examination and recommend if an individual should be placed under supervision for treatment.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-7

Sec. 7. If the court, acting on the report and other information coming to the court's attention, determines that:

- (1) an individual is not a drug abuser or an alcoholic; or
 - (2) the individual is not likely to be rehabilitated through treatment;
- the individual may be held to answer the charge.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-8

Sec. 8. If the court determines that an individual is a drug abuser or an alcoholic and is likely to be rehabilitated through treatment, the court may, with the consent of the prosecuting attorney:

- (1) defer the trial; or
- (2) without a jury, conduct the trial of the individual but may, with the consent of the prosecuting attorney, do the following:
 - (A) Defer entering general findings with respect to the individual until the time that prosecution may be resumed.
 - (B) Place the individual under the supervision of the division for treatment for a maximum of two (2) years.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-9

Sec. 9. The court may require progress reports on an individual that the court finds necessary.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-10

Sec. 10. An individual may not be placed under the supervision of the division for treatment under this chapter unless the division accepts the individual for treatment.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-11

Sec. 11. If an individual is placed under the supervision of the division for treatment under this chapter, the criminal charge against the individual shall be:

- (1) continued without final disposition; and
- (2) dismissed if the division certifies to the court that the individual has successfully completed the treatment program.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-12

Sec. 12. (a) Subject to subsection (b), if by the expiration of the supervisory period the division has not been able to certify that an individual has completed the treatment program, the pending proceeding may be resumed.

(b) If the court believes that the individual will complete the treatment on a voluntary basis, the court may dismiss the criminal charge.

(c) If, before the supervisory period expires, the division determines that further treatment of the individual is not likely to be successful, the division shall so advise the court. The court shall terminate the

supervision, and the pending criminal proceeding may be resumed.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-13

Sec. 13. If a criminal proceeding is resumed, time spent in institutional care shall be deducted from a fixed term of imprisonment imposed.

As added by P.L.2-1992, SEC.17.

IC 12-23-7-14

Sec. 14. The division may not release an offender under section 2(2) of this chapter to an alcohol and drug services treatment program that is not a program administered by a court under IC 12-23-14 or that has not complied with the certification requirements of the division of mental health.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.42.

IC 12-23-8

Chapter 8. Treatment and Probation Following Felony Conviction

IC 12-23-8-1

Sec. 1. If:

- (1) a court has reason to believe that an individual convicted of an offense is a drug abuser or an alcoholic or the individual states that the individual is a drug abuser or an alcoholic; and
 - (2) the court finds that the individual is eligible to make the request for treatment provided for under IC 12-23-6;
- the court may advise the individual that the individual may be placed on probation if the individual requests to undergo treatment and is accepted for treatment by the division.

As added by P.L.2-1992, SEC.17.

IC 12-23-8-2

Sec. 2. (a) In offering an individual an opportunity to request treatment, the court shall advise the individual of what may be required of the individual under IC 35-38-2-2.3 as conditions of probation.

(b) The court may certify an individual for treatment while on probation regardless of the failure of the individual to request treatment.

As added by P.L.2-1992, SEC.17.

IC 12-23-8-3

Sec. 3. If an individual requests to undergo treatment or is certified for treatment, the court may order an examination by the division to determine whether the individual is a drug abuser or an alcoholic and is likely to be rehabilitated through treatment.

As added by P.L.2-1992, SEC.17.

IC 12-23-8-4

Sec. 4. The court may deny the request if after conducting a presentence investigation the court finds that the individual would not qualify under criteria of the court to be released on probation.

As added by P.L.2-1992, SEC.17.

IC 12-23-8-5

Sec. 5. If a request is granted, the court shall certify to the division that the individual may request treatment.

As added by P.L.2-1992, SEC.17.

IC 12-23-8-6

Sec. 6. The court shall do the following:

- (1) Transmit to the division a summary of an individual's criminal history.
- (2) Transmit to the division a copy of the reports on all background and presentence investigations conducted by or for the court.

As added by P.L.2-1992, SEC.17.

IC 12-23-8-7

Sec. 7. Within a reasonable time after receiving an order to conduct an examination and after the court submits the required supporting documents and certification of eligibility, the division shall do the following:

- (1) Report to the court the results of the examination.

(2) Recommend whether the individual should be placed on probation and supervision for treatment.

As added by P.L.2-1992, SEC.17.

IC 12-23-8-8

Sec. 8. If the court, acting on a report and other information coming to the court's attention, determines that:

(1) an individual is not a drug abuser or an alcoholic; or

(2) the individual is not likely to be rehabilitated through treatment;

the court shall sentence the individual as in other cases.

As added by P.L.2-1992, SEC.17.

IC 12-23-8-9

Sec. 9. If the court determines that an individual is a drug abuser or an alcoholic and is likely to be rehabilitated through treatment, the court may do the following:

(1) Place the individual on probation under IC 35-38-2 and under the supervision of the division for treatment.

(2) Require progress reports on the individual from the probation officer and the division that the court finds necessary.

As added by P.L.2-1992, SEC.17.

IC 12-23-8-10

Sec. 10. An individual may not be placed under supervision unless the division accepts the individual for treatment.

As added by P.L.2-1992, SEC.17.

IC 12-23-8-11

Sec. 11. (a) Failure of an individual placed on probation and under the treatment supervision of the division to observe the requirements set down by the division constitutes a violation of a condition of probation.

(b) A failure shall be reported by the division to the probation officer in charge of the individual and treated in accordance with IC 35-38-2-3.

As added by P.L.2-1992, SEC.17.

IC 12-23-9

Chapter 9. Voluntary Treatment by Division for Alcoholics

IC 12-23-9-1

Sec. 1. An alcoholic may apply for voluntary treatment directly to a certified treatment facility. If the proposed patient is a minor or an incapacitated individual, the proposed patient, a parent, a legal guardian, or other legal representative may make the application.

As added by P.L.2-1992, SEC.17.

IC 12-23-9-2

Sec. 2. An individual who:

(1) comes voluntarily; or

(2) is a minor or an incapacitated individual who is brought to a certified public treatment facility; shall be examined by a licensed physician as soon as possible.

As added by P.L.2-1992, SEC.17.

IC 12-23-9-3

Sec. 3. (a) After a physical examination under section 2 of this chapter, an individual may be admitted as a patient or referred to another health facility.

(b) The referring certified treatment facility shall arrange for the individual's transportation.

As added by P.L.2-1992, SEC.17.

IC 12-23-9-4

Sec. 4. (a) An individual who by medical examination is found to be incapacitated by alcohol at the time of admission or to have become incapacitated by alcohol at any time after admission may not be detained at a facility:

(1) after the individual is no longer incapacitated by alcohol; or

(2) if the individual remains incapacitated by alcohol for more than forty-eight (48) hours after admission as a patient, unless the individual is committed under IC 12-23-7 through IC 12-23-8.

(b) An individual may consent to remain in a facility as long as the physician in charge believes it is appropriate.

As added by P.L.2-1992, SEC.17.

IC 12-23-9-5

Sec. 5. (a) If an individual is admitted to a certified public treatment facility, the individual's family or next of kin shall be notified as soon as possible.

(b) An adult patient who is not incapacitated may request that there be no notification. The request shall be respected.

As added by P.L.2-1992, SEC.17.

IC 12-23-9-6

Sec. 6. (a) The administrator in charge of a certified treatment facility may determine who shall be admitted for treatment.

(b) If an individual is refused admission, the administrator shall refer the individual to another approved public treatment facility for treatment if possible and appropriate.

(c) The administrator's determinations under this section are subject to rules adopted under IC 12-23-1-6(6).

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.43.

IC 12-23-9-7

Sec. 7. If a patient receiving inpatient care leaves a certified treatment facility, the patient shall be encouraged to consent to appropriate outpatient or intermediate treatment. If the administrator in charge of the treatment facility believes that the patient is an alcoholic who requires help, the bureau may assist the patient in obtaining supportive services and residential facilities (as defined in IC 12-7-2-165).

As added by P.L.2-1992, SEC.17. Amended by P.L.6-1995, SEC.14.

IC 12-23-9-8

Sec. 8. A police officer who takes custody of an intoxicated individual in good faith for the purpose of delivering the individual to:

(1) a certified treatment facility; or

(2) the alcoholic rehabilitation program provided for in IC 12-23-14;

is immune from civil or criminal liability arising out of a claim for or charge of false arrest or false imprisonment.

As added by P.L.2-1992, SEC.17.

IC 12-23-10**Chapter 10. Voluntary Treatment by Division for Drug Abusers****IC 12-23-10-1**

Sec. 1. An individual who believes himself to be a drug abuser may request the division or a facility approved by the division to provide the individual with treatment.

As added by P.L.2-1992, SEC.17.

IC 12-23-10-2

Sec. 2. Upon receipt of a request, the division or facility may require an examination of the individual to determine if:

(1) the individual is a drug abuser; and

(2) the individual should be admitted to an existing treatment facility or program.

As added by P.L.2-1992, SEC.17.

IC 12-23-10-3

Sec. 3. The examination shall be conducted within a reasonable time of the receipt of a request.

As added by P.L.2-1992, SEC.17.

IC 12-23-10-4

Sec. 4. The decision of the facility whether to offer treatment to an individual and whether to discontinue treatment to an individual is final and not subject to appeal.

As added by P.L.2-1992, SEC.17.

IC 12-23-11**Chapter 11. Involuntary Treatment by Division for Alcoholics and Drug Abusers****IC 12-23-11-1**

Sec. 1. (a) Except as provided in subsection (b), an individual who is:

(1) an alcoholic;

(2) incapacitated by alcohol; or

(3) a drug abuser;

may be involuntarily committed to the care of the division under IC 12-26.

(b) A drug abuser who is charged with or convicted of an offense that makes the individual ineligible to make an election for treatment under IC 12-23-6 may not be involuntarily committed under subsection (a).

As added by P.L.2-1992, SEC.17.

IC 12-23-11-2

Sec. 2. (a) Acceptance of treatment for drug abuse under the supervision of the division may be made a condition of parole under IC 11-13-3-4. Failure to comply with treatment may be treated as a violation of parole.

(b) The division shall establish the conditions under which a parolee is accepted for treatment.

(c) A parolee may not be placed under supervision of the division for treatment unless the division accepts the individual for treatment.

(d) The division shall make periodic progress reports regarding each parolee to the appropriate parole authority and shall report failures to comply with the prescribed treatment program.

As added by P.L.2-1992, SEC.17.

IC 12-23-12

Chapter 12. Voluntary and Involuntary Treatment by Division for Minors

IC 12-23-12-1

Sec. 1. A minor who voluntarily seeks treatment for alcoholism, alcohol abuse, or drug abuse from the division or a facility approved by the division may receive treatment without notification or consent of the parents, guardian, or person having control or custody of the minor.

As added by P.L.2-1992, SEC.17.

IC 12-23-12-2

Sec. 2. Notification or consent is at the discretion of the division or a facility approved by the division. A criminal action or civil suit may not be maintained against the division or the division's agents for the reasonable exercise of this discretion.

As added by P.L.2-1992, SEC.17.

IC 12-23-12-3

Sec. 3. A minor less than eighteen (18) years of age may be placed under the treatment supervision of the division by the court having jurisdiction over the minor, according to the procedure established for juveniles in such cases or the procedure established by this article if the court having juvenile jurisdiction waives jurisdiction.

As added by P.L.2-1992, SEC.17.

IC 12-23-13

Chapter 13. Miscellaneous Lawful Activity Relating to Controlled Substances

IC 12-23-13-1

Sec. 1. It is lawful for an individual to be under the influence of a controlled substance in a public place if the individual can present positive proof of the following:

(1) The individual is under the care of the division, a community mental health center, a managed care provider, or a licensed physician.

(2) The controlled substance constitutes medical treatment authorized by state and federal law.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.44.

IC 12-23-13-2

Sec. 2. It is lawful to prescribe, dispense, or administer controlled substances for the treatment of drug abuse if the following conditions are met:

(1) The controlled substances are used for the treatment or maintenance of a drug abuser.

(2) The treatment or maintenance is medically indicated.

(3) The treatment or maintenance is prescribed by a physician as a part of a rehabilitation program approved by the director and dispensed in compliance with the regulations for the dispensing of controlled substances.

As added by P.L.2-1992, SEC.17.

IC 12-23-14**Chapter 14. Court Established Alcohol and Drug Services Program****IC 12-23-14-1**

Sec. 1. A court having misdemeanor jurisdiction in a city or county may establish an alcohol and drug services program.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-2

Sec. 2. The court may establish an alcohol and drug services program under the court's operation or under private contract.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-3

Sec. 3. The court may establish uniform rules and may make special orders and rules as necessary.

As added by P.L.2-1992, SEC.17. Amended by P.L.168-2002, SEC.4.

IC 12-23-14-4

Sec. 4. Except as provided in section 5 of this chapter, an alcohol and drug services program and accompanying services and treatment facilities shall be open only to the individuals over whom the court has jurisdiction.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-5

Sec. 5. The court may agree to provide the services and facilities of a program for individuals referred from another court, a probation department, the department of correction, the Federal Bureau of Prisons, or the division.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-6

Sec. 6. (a) A program may provide for eligible individuals a range of necessary intervention services, including the following:

- (1) Screening for eligibility and other appropriate services.
- (2) Clinical assessment.
- (3) Education.
- (4) Referral.
- (5) Service coordination and case management.

(b) A program that is eligible under section 7 of this chapter may also provide a range of necessary treatment and rehabilitation services, including the following:

- (1) Emergency services.
- (2) Detoxification.
- (3) Counseling.
- (4) Rehabilitative care.

As added by P.L.2-1992, SEC.17. Amended by P.L.168-2002, SEC.5.

IC 12-23-14-7

Sec. 7. A program may not provide direct treatment or rehabilitation services unless the program is certified by the division and the court determines that existing community resources are inadequate to respond satisfactorily to the demand for the services from the court.

As added by P.L.2-1992, SEC.17. Amended by P.L.122-1997, SEC.2.

IC 12-23-14-8

Sec. 8. Before an alcohol and drug services program may be established in a county, the court must do the following:

- (1) Have a written statement from the Indiana judicial center approving the establishment of the program and the plans for operation before the court may submit the petition to the legislative and appropriating body for approval.
- (2) Obtain the approval of the legislative and appropriating body from which the court derives the court's money.

As added by P.L.2-1992, SEC.17. Amended by P.L.122-1997, SEC.3.

IC 12-23-14-9

Sec. 9. The court must submit a petition for approval containing the following:

- (1) A full description of a proposed program.
- (2) A budget for the program, supported by statistics showing the total fines and costs collected by the court in the most recent year.
- (3) Details on the implementation of the program.
- (4) If the program is to be operated through a private contractor, a reference file on the contractor, including the contractor's most recent financial statement and statements of the qualifications of program staff associated with the contractor.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-10

Sec. 10. (a) If the legislative and appropriating body approves an alcohol and drug services program and the operation through a private contractor, the court may direct the appropriate attorney to draft a contract governing the rights and duties of the contractor, the court, and the appropriating authority.

(b) The court is responsible for the administration of the program.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-11

YAMD.1992

Sec. 11. The court may, subject to the approval of the legislative and appropriating body, appoint a full-time executive director of a program and assistants and clerks that are necessary.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-12

Sec. 12. Program employees or contractors shall perform duties the court assigns, including the following:

- (1) Providing places for the program and the program's services.
- (2) Providing intervention, treatment, and rehabilitation services for eligible individuals.
- (3) Compiling information and statistics on the program's activities.
- (4) Reporting periodically to the court on program activities.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.45.

IC 12-23-14-13

Sec. 13. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established under IC 33-13-14-2.

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards will be required for persons employed in court drug and alcohol programs.

(c) A program established under this chapter is subject to the regulatory powers of the Indiana judicial center established by IC 33-13-14-2.

(d) With regard to alcohol and drug services programs established under this chapter, the Indiana judicial center may do the following:

- (1) Ensure that programs comply with rules adopted under this section and applicable federal regulations.
- (2) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this section and applicable federal regulations.
- (3) Make agreements and contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;

(D) a state supported or private university; or

(E) a public or private agency;

to effectuate the purposes of this chapter.

(4) Directly, or by contract, approve and certify programs established under this chapter.

(5) Require, as a condition of operation, that each program created or funded under this chapter be certified according to rules established by the Indiana judicial center.

(6) Adopt rules to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of alcohol and drug services programs.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by or to provide services to a court alcohol and drug services program. If the board adopts qualifications under this subsection:

- (1) the board shall establish an effective date after which any person employed by a court alcohol and drug

services program must meet the minimum qualifications adopted under this subsection; and
(2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

- (A) by a certified court alcohol and drug program before the effective date; or
- (B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

As added by P.L.2-1992, SEC.17. Amended by P.L.40-1994, SEC.46; P.L.122-1997, SEC.4; P.L.113-2001, SEC.2..

IC 12-23-14-14

Sec. 14. (a) The costs of an alcohol and drug services program established under this chapter shall be paid out of the city general fund or the county general fund and may be supplemented by payment from the user fee fund upon appropriation made under IC 33-19-8.

(b) The court shall fix the compensation of employees and contractors.

As added by P.L.2-1992, SEC.17.

IC 12-23-14.5-3

Individuals eligible

Sec. 3. (a) Except as provided in subsection (b), a drug court established under this chapter and accompanying services are open only to individuals over whom the court that established the drug court has jurisdiction.

(b) A drug court that does not otherwise have felony jurisdiction may accept an eligible individual who is referred to the drug court from another court within the county if the following criteria are met:

(1) The drug court returns the case to the court that made the referral for appropriate proceedings when the person has successfully completed drug court or the person's participation in the drug court has been terminated.

(2) If the drug court is a city or town court, the person selected as judge for the court is required to be an attorney under IC 33-10.1-5-7.

As added by P.L.168-2002, SEC.8. Amended by P.L.133-2003, SEC.1.

IC 12-23-14.5-9

Regulatory powers of Indiana judicial center; rules; educational and occupational qualifications; delegation of authority

Sec. 9. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana under IC 33-13-14-2.

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards will be required for a person employed by a drug court.

(c) A drug court established under this chapter is subject to the regulatory powers of the Indiana judicial center under IC 33-13-14-7.

(d) With regard to drug courts established under this chapter, the Indiana judicial center may do the following:

(1) Ensure that drug courts comply with rules adopted under this section and applicable federal regulations.

(2) Certify drug courts established under this chapter.

(3) Revoke the certification of a drug court upon a determination that the drug court does not comply with rules adopted under this section and applicable federal regulations.

(4) Make agreements and contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;

(D) a state supported or private university; or

(E) a public or private agency;

to implement this chapter.

(5) Require as a condition of operation that each drug court created or funded under this chapter be certified according to rules established by the Indiana judicial center.

(6) Adopt rules to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of drug courts.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be

employed by a drug court; however, any contract service provider must be licensed by the state or approved by the judicial center. If the board adopts qualifications under this subsection:

- (1) the board shall establish an effective date after which a person employed by a drug court must meet the minimum qualifications adopted under this subsection; and
- (2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

(A) by a certified drug court before the effective date; or

(B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

As added by P.L.168-2002, SEC.8. Amended by P.L.133-2003, SEC.2.

IC 12-23-14.5-15

Withholding judgment of conviction; dismissal of charges

Sec. 15. (a) A drug court may follow the procedure described in this section only if:

- (1) a person pleads guilty to an offense in which the use of alcohol or drugs was a contributing factor or material element of the offense;
- (2) the court refers the person to a drug court;
- (3) the prosecuting attorney consents to the referral;
- (4) the person who pleads guilty under subdivision (1) consents to the referral;
- (5) the person who pleads guilty under subdivision (1) is eligible to participate in the drug court under section 14(b) of this chapter and the drug court accepts the referral; and
- (6) the person has not had a previous dismissal under this section.

(b) Notwithstanding IC 35-38-1-1(a), the court, without entering a judgment of conviction, may defer further proceedings and place the person in a drug court subject to conditions established by the drug court.

(c) The drug court, the prosecuting attorney, and the participant must all agree upon the duration of the conditions established under subsection (b).

(d) If the drug court determines, after a hearing, that:

- (1) the person violated a condition established under subsection (b); or
 - (2) the period of time that the conditions established under subsection (b) were in effect expired before the person successfully completed each condition established by the drug court;
- the drug court may terminate the person's participation in the drug court.

(e) When a person's participation in a drug court has been terminated by the drug court under subsection (d), the drug court shall:

- (1) enter a judgment of conviction against the person; or
- (2) refer the case back to the court that referred the case to the drug court to allow the referring court to enter a judgment of conviction against the person.

(f) When a person fulfills the conditions established by a drug court under subsection (b), the drug court shall:

- (1) dismiss the charges against the person; or
- (2) refer the case back to the court that referred the case to the drug court to allow the referring court to dismiss the charges against the person.

As added by P.L.168-2002, SEC.8. Amended by P.L.133-2003, SEC.3.

IC 12-23-14-15

Sec. 15. A program may apply for and receive the following:

- (1) Gifts, bequests, and donations from private sources.
- (2) Grant and contract money from governmental sources.
- (3) Other forms of financial assistance approved by the court to supplement the budget.

As added by P.L.2-1992, SEC.17.

IC 12-23-14-16

Sec. 16. (a) The court may require an eligible individual to pay a fee for a service of a program.

(b) If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for program services.

(c) The fee for program services may not exceed four hundred dollars (\$400).

(d) A fee collected shall be deposited in the city or county user fee fund.

As added by P.L.2-1992, SEC.17. Amended by P.L.113-2001, SEC.3.

IC 12-23-14-17

Sec. 17. (a) The Indiana judicial center drug and alcohol programs fund is established for the purpose of administering, certifying, and supporting alcohol and drug services programs under this chapter. The fund shall be administered by the Indiana judicial center established under IC 33-13-14-2.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of the fiscal year does not revert to the state general fund.

As added by P.L.122-1997, SEC.5.

IC 12-23-14-18

Sec. 18. (a) As a condition of participation in an alcohol and drug services program, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the program. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the court alcohol and drug services program or the laboratory.

(b) A laboratory that performs a chemical test under this section shall report the results of the test to the program.

As added by P.L.168-2002, SEC.6.

IC 12-23-14-19

Sec. 19. (a) A person does not have a right to participate in an alcohol and drug services program under this chapter.

(b) The director and members of the professional and administrative staff of an alcohol and drug services program who perform duties in good faith under this chapter are immune from civil liability for:

(1) acts or omissions in providing services under this chapter; and

(2) the reasonable exercise of discretion in determining eligibility to participate in an alcohol and drug services program.

As added by P.L.168-2002, SEC.7.

IC 12-23-14.5**Chapter 14.5 Drug Courts****IC 12-23-14.5-1**

Sec. 1. A court having felony, misdemeanor, or juvenile jurisdiction in a city or county may establish a drug court under the court's operation. *As added by P.L.168-2002, SEC.8.*

IC 12-23-14.5-2

Sec. 2. A court establishing a drug court under this chapter may establish uniform rules and may make special orders and rules as necessary.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-3

Sec. 3. A drug court established under this chapter and accompanying services are open only to individuals over whom the court that established the drug court has jurisdiction.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-4

Sec. 4. (a) A drug court established under this chapter may provide for eligible individuals a range of necessary intervention services, including the following:

(1) Screening for eligibility and other appropriate services.

(2) Clinical assessment.

(3) Education.

(4) Referral.

(5) Service coordination and case management.

(b) A drug court that is eligible under section 5 of this chapter may also provide treatment and rehabilitation services, including the following:

(1) Emergency services.

(2) Detoxification.

(3) Counseling.

(4) Rehabilitative care.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-5

Sec. 5. A drug court established under this chapter may not provide direct treatment or rehabilitation services unless:

- (1) the drug court is certified by the division; and
- (2) the court that established the drug court determines that existing community resources are inadequate to respond satisfactorily to the demand for the services from the court.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-6

Sec. 6. (a) Except as provided in subsection (c), a court shall notify the Indiana judicial center during the planning stages of the court's intention to establish a drug court.

(b) Before a drug court may begin operation, the court must obtain a written statement from the Indiana judicial center approving the operation of the drug court.

(c) A drug court in operation before July 1, 2002, may continue to operate pending certification if the drug court does the following:

- (1) Before October 2, 2002, notifies the Indiana judicial center of the date the drug court began operation.
- (2) Follows procedures for certification as provided in rules adopted under section 9(d) of this chapter, including submission of an application for certification as required by the rules.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-7

Sec. 7. In addition to satisfying the requirements of section 6 of this chapter, a court seeking to establish a drug court must submit a petition for approval of the drug court. The petition must contain the following:

- (1) A full description of a proposed drug court.
- (2) Evidence that the court has considered:
 - (A) how to best use services that could be provided by any existing court alcohol and drug services program; and
 - (B) the role that an existing alcohol and drug services program will play in the development and implementation of the drug court.
- (3) A proposed budget for the drug court.
- (4) Details on the implementation of the drug court.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-8

Sec. 8. A court may take steps necessary to carry out the functions of the drug court, including hiring employees as needed to perform the required functions of the drug court.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-9

Sec. 9. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana under IC 33-13-14-2.

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards will be required for a person employed by a drug court.

(c) A drug court established under this chapter is subject to the regulatory powers of the Indiana judicial center under IC 33-13-14-7.

(d) With regard to drug courts established under this chapter, the Indiana judicial center may do the following:

- (1) Ensure that drug courts comply with rules adopted under this section and applicable federal regulations.
- (2) Certify drug courts established under this chapter.
- (3) Revoke the certification of a drug court upon a determination that the drug court does not comply with rules adopted under this section and applicable federal regulations.
- (4) Make agreements and contracts with:
 - (A) another department, authority, or agency of the state;
 - (B) another state;
 - (C) the federal government;
 - (D) a state supported or private university; or
 - (E) a public or private agency;to implement this chapter.

(5) Require as a condition of operation that each drug court created or funded under this chapter be certified

according to rules established by the Indiana judicial center.

(6) Adopt rules under IC 4-22-2 to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of drug courts.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by a drug court; however, any contract service provider must be licensed by the state or approved by the judicial center. If the board adopts qualifications under this subsection:

(1) the board shall establish an effective date after which a person employed by a drug court must meet the minimum qualifications adopted under this subsection; and

(2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

(A) by a certified drug court before the effective date; or

(B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-10

Sec. 10. (a) The costs of a drug court established under this chapter may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under IC 33-19-8.

(b) The court shall fix the compensation of employees of the drug court.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-11

Sec. 11. A drug court may apply for and receive the following:

(1) Gifts, bequests, and donations from private sources.

(2) Grant and contract money from governmental sources.

(3) Other forms of financial assistance approved by the court to supplement the court's budget.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-12

Sec. 12. (a) A court that has established a drug court under this chapter may require an eligible individual to pay a fee for drug court services.

(b) If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for drug court services.

(c) The fee for drug court services may not exceed five hundred dollars (\$500) per referral to the drug court.

(d) The clerk of the court shall collect fees under this section. The clerk shall transmit the fees within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-13

Sec. 13. (a) The Indiana judicial center drug court fund is established for the purpose of administering, certifying, and supporting drug courts under this chapter. The fund shall be administered by the Indiana judicial center.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. (c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-14

Sec. 14. (a) A person is eligible to participate in a drug court only if:

(1) the person meets all criteria established by the drug court;

(2) the judge approves the admission of the person to the drug court; and

(3) the offense for which the person is referred to drug court is not any of the following:

(A) A forcible felony (as defined in IC 35-41-1-11).

(B) A dealing offense under IC 35-48-4.

(C) Any offense that a local drug court committee agrees to exclude from participation.

The local drug court committee referred to in subdivision (3)(C) must include the drug court judge, the local prosecuting attorney, and a local criminal defense attorney.

(b) If a person is eligible to participate in a drug court, a person may be referred to the drug court as a result of any of the following:

- (1) The procedure described in section 15 of this chapter.
- (2) As a term of probation.
- (3) In response to a violation of a condition of probation.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-15

Sec. 15. (a) A drug court may follow the procedure described in this section only if:

- (1) a person pleads guilty to an offense in which the use of alcohol or drugs was a contributing factor or material element of the offense;
 - (2) the court refers the person to a drug court;
 - (3) the prosecuting attorney consents to the referral;
 - (4) the person who pleads guilty under subdivision (1) consents to the referral;
 - (5) the person who pleads guilty under subdivision (1) is eligible to participate in the drug court under section 14(b) of this chapter and the drug court accepts the referral; and
 - (6) the person has not had a previous dismissal under this section.
- (b) Notwithstanding IC 35-38-1-1(a), the court, without entering a judgment of conviction, may defer further proceedings and place the person in the custody of the drug court under conditions as the court determines.
- (c) The court, the prosecuting attorney, and the participant must all agree upon the duration of the conditions established under subsection (b).
- (d) The court after a hearing may enter a judgment of conviction if:
- (1) the person violates a condition established under subsection (b); or
 - (2) the period of time that the conditions are in effect expires before the person successfully completes each condition of custody.
- (e) The court shall dismiss the charges against the person if the person fulfills the conditions of the custody established under subsection (b).

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-16

Sec. 16. (a) As a condition of participation in a drug court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the court. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the court or the laboratory.

(b) A laboratory that performs a chemical test under this section shall report the results of each test to the court.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-17

Sec. 17. (a) A person does not have a right to participate in a drug court under this chapter.

(b) The coordinator and members of the professional and administrative staff of the court who perform duties in good faith under this chapter are immune from civil liability for:

- (1) acts or omissions in providing services under this chapter; and
- (2) the reasonable exercise of discretion in determining eligibility to participate in a drug court.

As added by P.L.168-2002, SEC.8

IC 12-23-15

Chapter 15. Citations for Public Intoxication

IC 12-23-15-1

Sec. 1. A police officer or peace officer making an arrest for public intoxication may do the following:

- (1) If an individual is unmanageable or is causing damage to the individual or others, take the individual into custody for criminal processing in the city lock-up or county jail.

(2) If an individual is manageable and not causing damage to the individual or others, issue a citation and do either of the following:

(A) If within reasonable proximity, take the individual to any of the following:

(i) The individual's home.

(ii) The home of a relative of the individual.

(iii) A responsible person who is competent and willing to provide care, assistance, and treatment.

(B) Take the individual to an approved public or private treatment facility or to the city lock-up or county jail if no facility is available.

As added by P.L.2-1992, SEC.17.

IC 12-23-15-2

Sec. 2. An individual to be taken to the city lock-up or county jail shall be evaluated at the earliest possible time for nonalcoholic factors that may be contributing to the appearance of intoxication.

As added by P.L.2-1992, SEC.17.

IC 12-23-15-3

Sec. 3. A citation written for the purpose of the offense of public intoxication must contain the following:

(1) The name of the individual arrested.

(2) The place where arrested.

(3) The name of the arresting officer.

(4) The time of arrest.

(5) The time and place for trial.

(6) Any other pertinent information thought necessary by the enforcement agency under whose jurisdiction the intoxicated individual was arrested.

As added by P.L.2-1992, SEC.17.

IC 12-23-16

Chapter 16. Program on Drug Abuse

IC 12-23-16-1

Sec. 1. For the purpose of this chapter, the director, in accordance with sound medical and psychiatric knowledge, may determine what symptoms and conditions must exist to say that an individual abuses drugs.

As added by P.L.2-1992, SEC.17.

IC 12-23-16-2

Sec. 2. The division may do the following:

(1) Provide for the promotion, establishment, coordination, and conduct of unified local programs of prevention, diagnosis, treatment, and rehabilitation in the field of drug abuse in cooperation with federal, state, local, and private agencies.

(2) Survey and analyze the state's needs and formulate a comprehensive plan for the long range development of local community treatment programs through the utilization of state, federal, local, and private resources for the prevention and control of drug abuse.

(3) With the approval of the budget agency, make agreements concerning local community treatment programs, including agreements with public and private agencies, to do or cause to be done whatever is necessary, desirable, or proper to carry out the purposes and objectives of this chapter within the amounts made available by appropriation, gift, grant, devise, or bequest.

(4) Establish and operate local community rehabilitation centers and other local facilities that the division considers necessary or desirable for the care, treatment, and rehabilitation of drug abusers.

(5) Approve facilities and services for the local community treatment, care, or rehabilitation of drug abusers.

(6) With the approval of the budget agency, accept on behalf of the state a gift, grant, devise, or bequest.

(7) Adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-16-3

Sec. 3. The division may establish drug abuse treatment and rehabilitation units:

(1) independently within local communities;

(2) as part of the community mental health plan; or

(3) in cooperation with local authorities or associations for the purpose of study, rehabilitation, and

treatment necessary for the control and prevention of drug abuse.

As added by P.L.2-1992, SEC.17.

IC 12-23-17

Chapter 17. Institution for Alcohol and Drug Abusers

IC 12-23-17-1

Sec. 1. With the approval of the governor, the director may do the following:

(1) Establish a separate state institution for the purposes of observing, diagnosing, or treating alcohol abusers or drug abusers.

(2) Transfer any part of the programs, records, and property at another state institution administered by the division relating to the observation, diagnosis, and treatment of alcohol abusers or drug abusers and the unused property at the other state institution to the state institution established under subdivision (1).

As added by P.L.2-1992, SEC.17.

IC 12-23-17-2

Sec. 2. The division shall administer and operate a state institution established under section 1 of this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-17-3

Sec. 3. If the programs, records, and property of a state institution are transferred under section 1(2) of this chapter, the state board of finance shall, under IC 4-9.1-1-7 and IC 4-13-2-23, transfer an appropriation to the state institution related to the transferred programs, records, and property to the state institution established under section 1 of this chapter.

As added by P.L.2-1992, SEC.17.

IC 12-23-18

Chapter 18. Methadone Diversion Control and Oversight Program

IC 12-23-18-1

Rules

Sec. 1. (a) Subject to federal law and consistent with standard medical practice in methadone treatment of drug abuse, the division shall adopt rules under IC 4-22-2 to establish and administer a methadone diversion control and oversight program to identify individuals who divert controlled substances from legitimate treatment use and to terminate the methadone treatment of those individuals.

(b) Rules adopted under subsection (a) must include provisions relating to the following matters concerning methadone providers and individuals who receive treatment:

(1) Regular clinic attendance by the patient.

(2) Specific counseling requirements for the methadone provider.

(3) Serious behavior problems of the patient.

(4) Stable home environment of the patient.

(5) Safe storage capacity of treatment medications within the patient's home.

(6) Medically recognized testing protocols to determine legitimate treatment use.

(7) The methadone provider's medical director and administrative staff responsibilities for preparing and implementing a diversion control plan.

As added by P.L.11-2003, SEC.2.

IC 12-23-18-2

Diversion control

Sec. 2. (a) Not later than February 28 of each year, each methadone provider must submit to the division a diversion control plan required under section 1(b)(7) of this chapter.

(b) Not later than May 1 of each year, the division shall review and approve plans submitted under subsection (a).

(c) If the division denies a plan submitted under subsection (a), the methadone provider must submit another plan not later than sixty (60) days after the denial of the plan.

As added by P.L.11-2003, SEC.2.

IC 12-23-18-3

Methadone provider fee

Sec. 3. (a) By May 15 of each year, each methadone provider shall submit to the division a fee of twenty

dollars (\$20) for each nonresident patient treated by the methadone provider during the preceding calendar year.

(b) The fee collected under subsection (a) shall be deposited in the methadone diversion control and oversight program fund established under section 4 of this chapter.

As added by P.L.11-2003, SEC.2.

IC 12-23-18-4

"Fund"

Sec. 4. (a) As used in this section, "fund" means the methadone diversion control and oversight program fund established under subsection (b).

(b) The methadone diversion control and oversight program fund is established to administer and carry out the purposes of this chapter. The fund shall be administered by the division.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest money in the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of the state fiscal year does not revert to the state general fund.

As added by P.L.11-2003, SEC.2.

IC 12-23-18-5

Annual onsite visit

Sec. 5. The division shall conduct an annual onsite visit of each methadone provider to assess compliance with the plan approved under this chapter.

As added by P.L.11-2003, SEC.2.

IC 12-23-18-6

Expiration

Sec. 6. This chapter expires June 30, 2008.

As added by P.L.11-2003, SEC.2.

IC 12-24

ARTICLE 24. STATE INSTITUTIONS

IC 12-24-1

Chapter 1. Administration of State Institutions

IC 12-24-1-1

Sec. 1. The director of the division of disability, aging, and rehabilitative services has administrative control of and responsibility for the following state institutions:

- (1) Fort Wayne State Developmental Center.
- (2) Muscatatuck State Developmental Center.
- (3) Any other state owned or operated developmental center.

As added by P.L.2-1992, SEC.18. Amended by P.L.146-1993, SEC.1; P.L.4-1993, SEC.199; P.L.5-1993, SEC.212; P.L.272-1999, SEC.44.

IC 12-24-1-2

(Repealed by P.L.146-1993, SEC.3.)

IC 12-24-1-3

Sec. 3. (a) The director of the division of mental health and addiction has administrative control of and responsibility for the following state institutions:

- (1) Central State Hospital.
- (2) Evansville State Hospital.
- (3) Evansville State Psychiatric Treatment Center for Children.
- (4) Larue D. Carter Memorial Hospital.
- (5) Logansport State Hospital.
- (6) Madison State Hospital.
- (7) Richmond State Hospital.
- (8) Any other state owned or operated mental health institution.

(b) Subject to the approval of the director of the budget agency and the governor, the director of the

division of mental health and addiction may contract for the management and clinical operation of Larue D. Carter Memorial Hospital.

(c) The following applies only to the institutions described in subsection (a)(2) and (a)(3):

(1) Notwithstanding any other statute or policy, the division of mental health and addiction may not do the following after December 31, 2001, unless specifically authorized by a statute enacted by the general assembly:

(A) Terminate, in whole or in part, normal patient care or other operations at the facility.

(B) Reduce the staffing levels and classifications below those in effect at the facility on January 1, 2002.

(C) Terminate the employment of an employee of the facility except in accordance with IC 4-15-2.

(2) The division of mental health and addiction shall fill a vacancy created by a termination described in subdivision (1)(C) so that the staffing levels at the facility are not reduced below the staffing levels in effect on January 1, 2002.

(3) Notwithstanding any other statute or policy, the division of mental health and addiction may not remove, transfer, or discharge any patient at the facility unless the removal, transfer, or discharge is in the patient's best interest and is approved by:

(A) the patient or the patient's parent or guardian;

(B) the individual's gatekeeper; and

(C) the patient's attending physician.

(d) The Evansville State Psychiatric Treatment Center for Children shall remain independent of Evansville State Hospital and the southwestern Indiana community mental health center, and the Evansville State Psychiatric Treatment Center for Children shall continue to function autonomously unless a change in administration is specifically authorized by an enactment of the general assembly.

As added by P.L.2-1992, SEC.18. Amended by P.L.215-2001, SEC.64; P.L.192-2002(ss), SEC.154.

IC 12-24-1-4

Sec. 4. A director, or the directors of the affected state institutions, may do the following:

(1) Transfer a developmentally disabled patient between state institutions.

(2) In consultation with the patient's treating physician, transfer a mentally ill patient between state institutions.

As added by P.L.2-1992, SEC.18.

IC 12-24-1-5

Sec. 5. (a) If this article grants a director a power, the director may exercise the power with respect to any state institution over which the director has administrative control and responsibility.

(b) If this article grants a superintendent a power, the superintendent may exercise the power only with respect to the state institution under the administrative control of the superintendent.

As added by P.L.2-1992, SEC.18.

IC 12-24-1-6

Sec. 6. For purposes of this article, the following apply:

(1) An official of a state institution is also considered an official of the state institution's division.

(2) An employee of a state institution is also considered an employee of the state institution's division.

(3) The property of a state institution is also considered the property of the state institution's division.

(4) A rule of a state institution is also considered a rule of the state institution's division.

As added by P.L.2-1992, SEC.18.

IC 12-24-1-7

Sec. 7. (a) During the closing of Central State Hospital, and after the institution is closed, the division of mental health shall secure, maintain, and fund appropriate long term inpatient beds for individuals who have been determined by a community mental health center to:

(1) have a chronic and persistent mental disorder or chronic addictive disorder; and

(2) be in need of care that meets the following criteria:

(A) Twenty-four (24) hour supervision of a patient is available.

(B) A patient receives:

(i) active treatment as appropriate for a chronic and persistent mental disorder or chronic addictive disorder;

(ii) case management services from a state approved provider; and

(iii) maintenance of care under the direction of a physician.

(C) Crisis care.

- (b) An individual placed in a long term inpatient bed under this section shall receive at least the care described in subsection (a)(2)(A) through (a)(2)(C).
- (c) The number of long term inpatient beds that must be secured, maintained, and funded under subsection (a) must satisfy both of the following:
- (1) The number of long term inpatient beds in the county where the hospital was located may not be less than twenty-one (21) adults per one hundred thousand (100,000) adults in the county where the hospital was located.
- (2) The total number of long term inpatient beds may not be less than twenty-one (21) adults per one hundred thousand (100,000) adults in the catchment area served by Central State Hospital. The division may reduce the total number of long term inpatient beds required by this subdivision whenever the division determines that caseloads justify a reduction. However:
- (A) the total number of long term inpatient beds may not be reduced below the number required by subdivision (1); and
- (B) the number of long term inpatient beds in the county where the hospital was located may not be reduced below the number required by subdivision (1).
- (d) The division is not required to secure, maintain, and fund long term inpatient beds under this section that exceed the number of individuals who have been determined by a community mental health center to be in need of inpatient care under subsection (a). However, subject to the limitations of subsection (c), the division shall at all times retain the ability to secure, maintain, and fund long term inpatient beds for individuals who satisfy the criteria in subsection (a) as determined by the community mental health centers.
- (e) An individual may not be placed in a long term inpatient bed under this section at Larue D. Carter Memorial Hospital if the placement adversely affects the research and teaching mission of the hospital.
- (f) Notwithstanding any other law, the director of the division of mental health may not terminate normal patient care or other operations at Central State Hospital unless the division has developed a plan to comply with this section. Before closing Central State Hospital, the director shall submit a report to the legislative council containing the following information:
- (1) The plans the division has made and implemented to comply with this section.
- (2) The disposition of patients made and to be made from July 1, 1993, to the estimated date of closing of Central State Hospital.
- (3) Other information the director considers relevant.

As added by P.L.40-1994, SEC.47. Amended by P.L.253-1997(ss), SEC.11.

IC 12-24-1-10

Prohibiting termination of patient care at Muscatatuck; conducting public hearing, study, and report; developing downsizing plan for Muscatatuck; report approval; closing Muscatatuck

- Sec. 10. (a) Notwithstanding any other law, the director of the division of disability, aging, and rehabilitative services may not terminate normal patient care or other operations at Muscatatuck State Developmental Center unless the division has complied with this section.
- (b) The division shall conduct at least one (1) public hearing at a handicap accessible location in the county where Muscatatuck State Developmental Center is located to obtain written and oral testimony from all persons interested in the effect that the center's downsizing would have on:
- (1) Muscatatuck State Developmental Center:
- (A) residents;
- (B) residents' families; and
- (C) employees; and
- (2) communities surrounding Muscatatuck State Developmental Center.
- (c) The division shall conduct a study of the following issues:
- (1) The risks to the health and well-being of residents of Muscatatuck State Developmental Center and the families of residents that arise from:
- (A) downsizing Muscatatuck State Developmental Center; and
- (B) transferring residents to new placements.
- (2) The types of placements needed to adequately serve residents of Muscatatuck State Developmental Center in a setting that is located within the vicinity of the families of residents, including:
- (A) the availability of adequate placements; and
- (B) the need to develop new placement opportunities.

- (3) The economic impact that downsizing will have on:
 - (A) Muscatatuck State Developmental Center:
 - (i) residents;
 - (ii) residents' families; and
 - (iii) employees; and
 - (B) communities surrounding Muscatatuck State Developmental Center.
 - (4) The existence of environmental hazards on the property where Muscatatuck State Developmental Center is located.
 - (5) Opportunities for reuse of the Muscatatuck State Developmental Center property in a manner that will enhance the economy of the area.
 - (d) After the public hearing required under subsection (b), the division shall submit a report to the legislative council and the budget agency that contains the following information:
 - (1) A summary of the testimony received at the public hearing required under subsection (b).
 - (2) The results of the division's study under subsection (c).
 - (3) Other information the director of the division considers relevant.
 - (e) The division shall develop a plan for the downsizing of Muscatatuck State Developmental Center. The plan must include the following:
 - (1) A plan and timetable for placement of appropriate residents of Muscatatuck State Developmental Center in adequate placements that fully meet the needs of the residents before downsizing Muscatatuck State Developmental Center.
 - (2) A plan for moving residents to alternative placements that protects the physical health, mental health, and safety of the residents.
 - (3) A plan for keeping:
 - (A) Muscatatuck State Developmental Center:
 - (i) residents;
 - (ii) residents' families; and
 - (iii) employees; and
 - (B) communities surrounding Muscatatuck State Developmental Center;
 - informed of each significant step taken in the planning, resident placement, and downsizing process.
 - (4) An environmental plan for the elimination of any environmental hazards on the property where Muscatatuck State Developmental Center is located.
 - (5) A plan and timetable for the reuse of the Muscatatuck State Developmental Center property in a manner that will provide for the best economic use of the property.
 - (6) A plan for monitoring compliance with the standards set to assure the health and safety of residents, compliance with this section, and compliance with the plans developed under this section.
- The division shall submit the plan required under this subsection to the legislative council and the budget agency at the same time that the report required under subsection (d) is submitted.
- (f) The report required under subsection (d) and the plan required under subsection (e) must be approved by the budget director after review by the legislative council and the budget committee.
 - (g) The director may not complete the closure of Muscatatuck State Developmental Center until:
 - (1) the report and plan are approved by the budget director under subsection (f); and
 - (2) residents of Muscatatuck State Developmental Center are placed in adequate placements that:
 - (A) fully meet the capabilities and needs of the residents; and
 - (B) are located sufficiently close to the families of residents so that the families may maintain the same level of contact with the residents that the families had before the residents were transferred from Muscatatuck State Developmental Center.

As added by P.L.190-2002, SEC.2. Amended by P.L.224-2003, SEC.96.

IC 12-24-2

Chapter 2. Superintendents of State Institutions

IC 12-24-2-1

Sec. 1. A state institution is under the administrative control of a superintendent appointed under section 2 of this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-2

Sec. 2. Subject to the approval of the governor, the director of the division shall appoint the superintendent of a state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-3

Sec. 3. The director of the division may adopt rules under IC 4-22-2 to prescribe the qualifications of a superintendent of a state institution under the control of the division. A superintendent must possess the prescribed qualifications.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-4

Sec. 4. (a) Except as provided in subsection (b), a superintendent serves a term of four (4) years.

(b) Subject to the approval of the governor, the director may remove a superintendent at any time.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-5

Sec. 5. The superintendent of a state institution is administratively responsible to the director.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-6

Sec. 6. A superintendent shall furnish a bond as required by IC 12-24-3-3.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-7

Sec. 7. A superintendent may do the following:

- (1) Administer oaths.
- (2) Take depositions.
- (3) Certify to official acts.

As added by P.L.2-1992, SEC.18.

IC 12-24-2-8

Sec. 8. (a) Notwithstanding IC 12-27-3-3, the superintendent of a state institution has complete authority to regulate smoking (as defined in IC 16-41-37-3) within the state institution.

(b) A physician licensed under IC 25-22.5 may prescribe nicotine as is medically necessary for a resident of a state institution.

As added by P.L.110-1997, SEC.2.

IC 12-24-2-9

Sec. 9. (a) Notwithstanding any other law, an individual shall be admitted to the Evansville State Psychiatric Treatment Center for Children if the decision to admit the individual is approved by:

- (1) the individual's gatekeeper; and
- (2) the Evansville State Psychiatric Treatment Center for Children's admission committee, which must consist of at least the following individuals:

- (A) The superintendent.
- (B) The medical director.
- (C) The clinical director.
- (D) The director of nursing.

(b) The division of mental health and addiction shall encourage and facilitate the placement of appropriate patients at the Evansville State Psychiatric Treatment Center for Children. A state operated facility must be considered before referring a patient to an out-of-state treatment center. The appropriateness of admission to the Evansville State Psychiatric Treatment Center for Children is determined when both the individual's gatekeeper and the Evansville State Psychiatric Treatment Center for Children's admission committee agree that the individual meets admission criteria and that admission to the Evansville State Psychiatric Treatment Center for Children is the least restrictive treatment option available to meet the individual's psychiatric needs. An administrator of the division of mental health and addiction may not make a determination of the appropriateness of admission to the Evansville State Psychiatric Treatment Center for Children unless the individual's gatekeeper and the admissions committee fail to reach agreement on the appropriateness of the referral. If the gatekeeper and the admissions committee fail to reach an agreement on the appropriateness of the referral, the decision of the division of mental health and addiction is final.

As added by P.L.192-2002(ss), SEC.155.

IC 12-24-3

Chapter 3. Employees of State Institutions

IC 12-24-3-1

Sec. 1. Except as provided in IC 4-15-2-3.8, IC 4-15-2 applies to all employees of a state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-3-2

Sec. 2. To provide greater security for patients, visitors, and employees, the division may not employ in a state institution an individual who has been convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4).

As added by P.L.2-1992, SEC.18.

IC 12-24-3-3

Sec. 3. (a) As used in this section, "employee" includes the superintendent of an institution.

(b) The director may require an employee of a state institution to furnish a bond in an amount determined by the director. The director shall require a superintendent to furnish a bond in an amount determined by the director.

(c) A bond required by this section must be:

- (1) payable to the state;
- (2) conditioned upon the faithful performance of the employee's duties;
- (3) subject to the approval of the insurance commissioner; and
- (4) filed in the office of the secretary of state.

(d) The premiums for a bond required by this section shall be paid from the money of the division.

(e) The division may secure a standard form blanket bond or crime insurance policy endorsed to include faithful performance that covers all or any part of the employees of the division. A blanket bond or crime insurance policy secured by the division under this subsection must be in an amount of at least fifty thousand dollars (\$50,000).

(f) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by P.L.2-1992, SEC.18. Amended by P.L.49-1995, SEC.9.

IC 12-24-3-4

Sec. 4. (a) Each year the director shall set a salary schedule for each of the educational systems established in a state institution as provided in subsections (b) and (c).

(b) The director shall set a salary schedule by using a daily rate of pay for each teacher that equals the rate of pay of the largest school corporation in the county in which the state institution is located. If the school corporation in which the state institution is located becomes the largest school corporation in the county in which the state institution

is located, the daily rate of pay for each teacher must equal that of the school corporation in which the institution is located, without regard to whether the school corporation in which the state institution is located remains the largest school corporation in the county.

(c) The salary schedule set by the director is subject to the approval of the state personnel department and the budget agency.

(d) The director shall prescribe the terms of the annual contract. The prescribed annual contract shall be awarded to licensed teachers qualified for payment under the salary schedule prescribed under this section. The director shall advise the budget agency and the governor of this action.

(e) Hours of work for all teachers shall be set in accordance with IC 4-15-2.

As added by P.L.2-1992, SEC.18.

IC 12-24-4

Chapter 4. Security at State Institutions

IC 12-24-4-1

Sec. 1. Subject to the approval of the director, a superintendent may appoint security officers to exercise the

powers given by this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-4-2

Sec. 2. The director and the superintendent shall do the following with respect to security officers appointed under this chapter:

- (1) Prescribe duties.
- (2) Direct conduct.
- (3) Prescribe distinctive uniforms.
- (4) Designate emergency vehicles for the use of the security officers.

As added by P.L.2-1992, SEC.18.

IC 12-24-4-3

(Repealed by P.L.24-1997, SEC.66.)

IC 12-24-4-4

(Repealed by P.L.24-1997, SEC.66.)

IC 12-24-4-5

(Repealed by P.L.24-1997, SEC.66.)

IC 12-24-4-6

Sec. 6. (a) The director or a superintendent may authorize one (1) or more officials of the division or the state institution to request the assistance of other state, county, city, or town law enforcement officers if necessary.

(b) If a law enforcement officer is on the property of the division by virtue of a request under this section, the law enforcement officer possesses all powers conferred by this chapter upon a security officer appointed with police powers under this chapter in addition to the powers otherwise conferred upon the law enforcement officer by Indiana law.

As added by P.L.2-1992, SEC.18.

IC 12-24-4-7

Sec. 7. (a) This section does not limit or restrict the powers of another governmental authority having jurisdiction over public streets, roads, alleys, or ways.

(b) The director or a superintendent may regulate the traffic of vehicles and pedestrians and parking of vehicles within real property owned, used, occupied, or controlled by the division. Rules applicable to traffic and parking may include the following:

(1) Provisions governing the:

- (A) registration;
 - (B) speed;
 - (C) operation;
 - (D) parking; or
 - (E) times, places, and manner of use;
- of vehicles.

(2) Provisions prescribing penalties for the violation of the rules, which may include any of the following:

- (A) Imposition of reasonable charges.
 - (B) Removing and impounding at the expense of the violator vehicles that are operated or parked in violation of the rules.
 - (C) Denial of permission to operate vehicles on the property of the division or the state institutions.
- (3) Provisions establishing reasonable charges and fees for any of the following:
- (A) Registration of vehicles.
 - (B) Use of parking spaces or facilities owned or occupied by the division.

As added by P.L.2-1992, SEC.18.

IC 12-24-5

Chapter 5. Admission to State Institutions

IC 12-24-5-1

Sec. 1. As used in this chapter, "resident" refers to an individual who has lived continuously in Indiana during the previous year.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-2

Sec. 2. For purposes of determining the residence of an individual under this chapter, the following apply:

- (1) If the individual spent any time in a public or private hospital or institution, the individual is not considered to have lived in Indiana continuously during that period.
- (2) If the individual has been a resident of a state that does not have a reciprocal agreement with Indiana, the residence requirements for the individual to gain admission to a state institution may not be less than the requirements for residence in the state of the former residence of the individual.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-3

Sec. 3. A resident is entitled to care and maintenance in a state institution if the resident is legally admitted to the state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-4

Sec. 4. The director may authorize the admission of an individual who is not a resident to a state institution if, in the judgment of the director:

- (1) it cannot be determined if the individual is a resident; or
- (2) the circumstances of the case constitute sufficient reason to admit the individual.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-5

Sec. 5. The director may order the deportation of an individual found in Indiana who has escaped from an institution of another state even if an application to admit the individual to a state institution has not been made.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-6

YAMD.1992

Sec. 6. (a) The superintendent of a state institution shall notify the director if there is a patient in the state institution who the superintendent believes is not a resident.

(b) If the director receives a report under subsection (a), the director or the director's designee shall investigate whether the patient is a resident.

(c) Except as provided in subsection (e), if the director determines that the patient was not a resident at the time of admission to the state institution, the division shall return the patient to the patient's place of residence.

(d) If the director determines it is impractical to return the patient to the patient's place of residence, the director shall certify that fact in writing.

(e) If the director makes a certification under subsection (d), the patient is considered a resident of the county in which the patient resided for the longest time during the year immediately preceding the patient's admission to the state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-7

Sec. 7. The director may enter into agreements with authorities of another state that enacts legislation consistent with this chapter for the following:

- (1) The arbitration of disputed questions between the other state and Indiana concerning the residence of individuals.
- (2) The return of the individuals to their place of residence.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-8

Sec. 8. The director may consent to the return to Indiana of an individual who is a resident.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-9

Sec. 9. The director shall designate a state institution to do the following:

- (1) Receive individuals returned to Indiana under this chapter.
- (2) Provide care for those individuals until committed to the proper state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-5-10

Sec. 10. The actual necessary expense incurred in deporting an individual under this chapter shall be paid from the state general fund upon a verified claim made by the director or the director's designee.

As added by P.L.2-1992, SEC.18.

IC 12-24-7

Chapter 7. Employment and Remuneration of Patients at State Institutions

IC 12-24-7-1

Sec. 1. As used in this chapter, "patient" means an individual who is an inpatient in a state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-2

Sec. 2. As used in this chapter, "treatment team" includes physicians, psychologists, therapists, or other state institution staff designated to meet periodically to review a patient's progress.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-3

Sec. 3. (a) If the treatment team determines that a patient can benefit from performing work for a wage, the treatment team shall do the following:

- (1) Identify in writing the goals and objectives to be achieved for a patient who performs work for a wage.
- (2) Describe in writing the type of work the patient can perform.
- (3) Determine in writing the number of hours a patient may perform work each week.
- (4) Notify the patient and the superintendent of the information described in subdivisions (1), (2), and (3).
- (5) Receive comments from the patient, the patient's guardian (if any), and other persons interested in the patient's welfare.

(b) The treatment team shall review the determinations that the team makes under subsection (a) at least quarterly.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-4

Sec. 4. (a) A patient may elect to perform work for pay under this chapter if work of the type described by the treatment team under section 3(a)(1) of this chapter is available.

(b) A patient may not be required to perform work for pay.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-5

Sec. 5. A patient may spend wages earned for work performed under this chapter in any lawful manner.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-6

YAMD.1992

Sec. 6. A division may not:

- (1) deduct any of a patient's earned wages, except for those deductions required by law; or
 - (2) require a patient to pay any of the patient's earned wages;
- to defray any part of the cost of the patient's care and treatment at the state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-7

Sec. 7. A patient who earns wages under this chapter is not:

- (1) subject to rules of the state personnel department;
- (2) eligible to become a member of the public employees' retirement fund; or
- (3) covered by IC 22-2-2.

As added by P.L.2-1992, SEC.18.

IC 12-24-7-8

Sec. 8. Each division shall adopt rules under IC 4-22-2 concerning the following:

- (1) The operation of work programs under this chapter.
- (2) The establishment of wage scales for work performed under this chapter.
- (3) The frequency with which the treatment team must meet concerning the patient's progress toward achieving the goals and objectives established for the patient.

As added by P.L.2-1992, SEC.18.

IC 12-24-8

Chapter 8. Apprehending and Returning Escaped Patients

IC 12-24-8-1

Sec. 1. If an individual escapes from the facility to which an individual is committed under IC 12-26 or fails to comply with the requirements for outpatient status in accordance with IC 12-26-14-8, the sheriff of the county in which the individual is found shall take charge of and return the individual to the nearest state institution or community mental health center that has appropriate and available facilities and personnel to detain the escaped individual.

As added by P.L.2-1992, SEC.18.

IC 12-24-8-2

Sec. 2. The expense of apprehending and returning the individual is a charge against the county from which the individual was originally committed.

As added by P.L.2-1992, SEC.18.

IC 12-24-8-3

Sec. 3. (a) The sheriff shall take a receipt from the superintendent of the state institution or community mental health center to which the individual is delivered.

(b) The sheriff's expense account, when submitted with the receipt obtained under subsection (a) to the auditor of the county from which the individual has been committed, shall be paid in the same manner as payments for the original delivery of the individual to the facility are paid.

As added by P.L.2-1992, SEC.18.

IC 12-24-8-4

Sec. 4. The appropriate division shall arrange for the transfer of the returned individual from the facility to which the individual is returned to the facility where the individual is committed under IC 12-26.

As added by P.L.2-1992, SEC.18.

IC 12-24-9

Chapter 9. Funeral Expenses of Patients

IC 12-24-9-1

Sec. 1. If a patient in a state institution dies, the superintendent shall pay the funeral expenses if those expenses are not otherwise supplied.

As added by P.L.2-1992, SEC.18.

IC 12-24-9-2

Sec. 2. The superintendent shall charge the county from which the patient was admitted for the funeral expenses paid by the superintendent under section 1 of this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-9-3

Sec. 3. A charge made under section 2 of this chapter shall be:

- (1) signed by the superintendent;
- (2) attested by the seal of the state institution; and
- (3) delivered to the treasurer of state.

As added by P.L.2-1992, SEC.18.

IC 12-24-9-4

Sec. 4. The treasurer of state shall collect the account from the county as a debt due to the state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-10

Chapter 10. Guardian for Estate of Patient Committed to State Institution

IC 12-24-10-1

Sec. 1. If:

- (1) it becomes necessary to appoint a guardian for the estate of an individual who has been committed to a state institution; and
- (2) the estate of the individual does not exceed three hundred dollars (\$300);

the attorney general shall represent the individual in securing the appointment of a guardian for the individual's estate.

As added by P.L.2-1992, SEC.18.

IC 12-24-10-2

Sec. 2. Upon presentation of a petition for the appointment of a guardian, the court may appoint either of the following as the guardian of the individual's estate:

(1) The superintendent of the state institution to which the individual has been committed.

(2) Another individual employed by the state institution in an administrative capacity.

As added by P.L.2-1992, SEC.18.

IC 12-24-10-3

Sec. 3. An application for the appointment of a guardian under this chapter must be filed in the circuit or superior court in the county in which the state institution is located.

As added by P.L.2-1992, SEC.18.

IC 12-24-10-4

Sec. 4. Fees or costs may not be charged in a proceeding under this chapter, including a fee for the guardian or the attorney for the guardian.

As added by P.L.2-1992, SEC.18.

IC 12-24-11

Chapter 11. Release of Records Concerning Patients Discharged From State Institutions

IC 12-24-11-1

(Repealed by P.L.40-1994, SEC.83.)

IC 12-24-11-2

Sec. 2. (a) This section applies to an individual who has a primary diagnosis of developmental disability.

(b) Action contemplated by a patient under this section includes action by the patient's parent or guardian if the patient is not competent.

(c) If a patient is admitted to a state institution, the staff of the state institution shall, before the patient is discharged, ask the patient whether the patient's medical and treatment records may be sent to a service coordinator employed by the division of disability, aging, and rehabilitative services under IC 12-11-2.1 so the service coordinator may send the records to local agencies serving the needs of developmentally disabled individuals in the area in which the patient will reside.

(d) If a patient agrees to release the records, the patient shall sign a form permitting the state institution to release to a service coordinator employed by the division of disability, aging, and rehabilitative services under IC 12-11-2.1 a copy of the patient's medical and treatment records to forward to local agencies serving the needs of developmentally disabled individuals in the area in which the patient will reside. The form must read substantially as follows:

AUTHORIZATION TO RELEASE
MEDICAL AND TREATMENT
RECORDS

I agree to permit _____

(name of state institution)

to release a copy of the medical and treatment records of

_____ to _____

(patient's name) (name of local agency

serving the needs of

developmentally disabled

individuals)

(date) (signature)

(address)

(signature of individual (relationship to patient if

securing release of signature is not that of the

medical and treatment patient)
records)

(e) If a patient knowingly signs the form for the release of medical records under subsection (d), a service coordinator employed by the division of disability, aging, and rehabilitative services under IC 12-11-2.1 shall allow local agencies serving the needs of

developmentally disabled individuals in the area in which the patient will reside to obtain the following:

(1) The patient's name.

(2) The address of the patient's intended residence.

(3) The patient's medical records.

(4) A complete description of the treatment the patient was receiving at the state institution at the time of the patient's discharge.

(f) If the local agency does not obtain a patient's records, the state institution shall deliver the medical records to the local agency before or at the time the patient is discharged.

(g) If a patient does not agree to permit the release of the patient's medical and treatment records, the service coordinator shall deliver:

(1) the patient's name; and

(2) the address of the patient's intended residence;

to local agencies serving the needs of developmentally disabled individuals in the area in which the patient will reside before or at the time the patient is discharged.

As added by P.L.2-1992, SEC.18. Amended by P.L.4-1993, SEC.200; P.L.5-1993, SEC.213; P.L.24-1997, SEC.55; P.L.272-1999, SEC.45.

IC 12-24-11-3

Sec. 3. Immediately upon receiving a patient's medical records or a patient's name and address under section 2 of this chapter, IC 12-24-12, or IC 12-26-11, the community mental health center, the managed care provider, or the local agency serving the needs of the developmentally disabled shall do the following:

(1) Contact:

(A) the patient; or

(B) the patient's parent or guardian if the patient is not competent.

(2) Explain the types of services that are available to the patient in the area in which the patient will reside.

As added by P.L.2-1992, SEC.18. Amended by P.L.40-1994, SEC.48.

IC 12-24-11-4

Sec. 4. (a) A person is exempt from complying with this chapter only to the extent that compliance with this chapter will result in a loss of federal money or services.

(b) A person shall comply with this chapter and perform additional acts required to receive federal money or services if performance of the additional acts not specified by this chapter are required to receive the federal money or services.

As added by P.L.2-1992, SEC.18.

IC 12-24-12

Chapter 12. Monitoring of Patients Discharged From State Institutions and the Use of Community Residential Programs

IC 12-24-12-1

Sec. 1. As used in this chapter, "division" refers only to the division of mental health.

As added by P.L.2-1992, SEC.18.

IC 12-24-12-2

Sec. 2. The division shall contract with managed care providers to administer a system of community based gatekeepers to monitor each individual from the time the individual has been involuntarily committed to a state institution administered by the division until the individual is discharged from the commitment.

As added by P.L.2-1992, SEC.18. Amended by P.L.62-1993, SEC.7; P.L.40-1994, SEC.49; P.L.6-1995, SEC.15.

IC 12-24-12-3

Sec. 3. (a) Before an individual described in section 2 of this chapter is discharged or placed on outpatient status under IC 12-26, a discharge plan shall be formulated in consultation with the patient's designated case manager. The superintendent shall provide copies of the individual's plan of discharge or placement to

a community mental health center or a managed care provider serving the area in which the individual will reside. The plan must include the following:

- (1) A copy of the papers authorizing the discharge or placement.
 - (2) An assessment of the individual's mental health.
 - (3) The superintendent's recommendations concerning the follow-up treatment services and the specific residential placement that the individual should receive after the individual is discharged or placed.
 - (4) If the individual has been placed on outpatient status, a description of the conditions relating to the individual's placement.
- (b) If the plan provided to the managed care provider or community mental health center under subsection (a) recommends or requires that an individual receive treatment from another treatment provider, the managed care provider or community mental health center shall document the following:
- (1) Whether the initial contact with the treatment provider occurred.
 - (2) Whether treatment was rendered according to the recommendations in the individual's plan.
 - (3) What changes, if any, were made in the individual's plan by the treatment provider.
- (c) If the plan provided to the managed care provider under subsection (a) recommends or requires that an individual reside at a location designated by the superintendent in the plan, the case manager shall monitor whether the individual is residing at the location.

As added by P.L.2-1992, SEC.18. Amended by P.L.40-1994, SEC.50.

IC 12-24-12-4

Sec. 4. (a) If a managed care provider is aware of problems with continuity of care for a discharged or placed individual, the managed care provider shall contact:

- (1) the discharged or placed individual;
 - (2) the treatment provider;
 - (3) the residential provider; or
 - (4) the state institution from which the individual has been discharged or placed;
- and attempt to resolve any problems.

(b) If the treatment or residential problems continue and are significant, the managed care provider shall report these findings to the director.

As added by P.L.2-1992, SEC.18. Amended by P.L.40-1994, SEC.51.

IC 12-24-12-5

(Repealed by P.L.40-1994, SEC.83.)

IC 12-24-12-6

Sec. 6. Sections 3 through 4 of this chapter do not require an individual who has been discharged from a state institution to comply with the plan developed for the individual under section 3 of this chapter or to cooperate with a case manager in the performance of the case manager's duties under sections 3 through 4 of this chapter.

As added by P.L.2-1992, SEC.18. Amended by P.L.40-1994, SEC.52.

IC 12-24-12-7

(Repealed by P.L.40-1994, SEC.83.)

IC 12-24-12-8

(Repealed by P.L.40-1994, SEC.83.)

IC 12-24-12-9

Sec. 9. The gatekeeper for an individual who has been committed to a state institution administered by the division has the following duties:

- (1) To provide case management to the individual in both the state institution and the community.
- (2) To facilitate and plan the committed individual's transition from the state institution to the community or to another appropriate placement.

As added by P.L.6-1995, SEC.16.

IC 12-24-12-10

Sec. 10. (a) Upon admission to a state institution administered by the division of mental health, the gatekeeper is one (1) of the following:

- (1) For an individual with a psychiatric disorder, the community mental health center that submitted the report to the committing court under IC 12-26.
- (2) For an individual with a developmental disability, a division of disability, aging, and rehabilitative services service coordinator

under IC 12-11-2.1.

(3) For an individual entering an addictions program, an addictions treatment provider that is certified by the division of mental health.

(b) The division is the gatekeeper for the following:

(1) An individual who is found to have insufficient comprehension to stand trial under IC 35-36-3.

(2) An individual who is found to be not guilty by reason of insanity under IC 35-36-2-4 and is subject to a civil commitment under IC 12-26.

(3) An individual who is immediately subject to a civil commitment upon the individual's release from incarceration in a facility administered by the department of correction or the Federal Bureau of Prisons, or upon being charged with or convicted of a forcible felony under IC 35-41-1.

(4) An individual placed under the supervision of the division for addictions treatment under IC 12-23-7 and IC 12-23-8.

(5) An individual transferred from the department of correction under IC 11-10-4.

As added by P.L.6-1995, SEC.17. Amended by P.L.24-1997, SEC.56; P.L.272-1999, SEC.46.

IC 12-24-12-11

Sec. 11. (a) A gatekeeper must be assigned to an individual at the time of the petition for commitment under IC 12-26-6 and IC 12-26-7.

(b) Except as provided in subsection (c), the entity assigned as the committed individual's gatekeeper shall continue to serve as that individual's gatekeeper until the termination of the individual's commitment.

(c) The assignment of the gatekeeper for an individual may be transferred to another gatekeeper if the transfer is in the best interest of the committed individual.

As added by P.L.6-1995, SEC.18.

IC 12-24-13

Chapter 13. Liability for Cost of Treatment of Patients in State Institutions

IC 12-24-13-1

Sec. 1. Each division shall develop and implement an accounting and bookkeeping system for each state institution so that the cost of all institutional services provided to a patient can be determined.

As added by P.L.2-1992, SEC.18.

IC 12-24-13-2

Sec. 2. A patient, patient's parents, patient's legal guardians, or patient's other responsible relatives may be charged only for services and treatment provided.

As added by P.L.2-1992, SEC.18.

IC 12-24-13-3

Sec. 3. (a) Before July 1 of each year, the director of each division shall compute the per capita cost of treatment and maintenance at each state institution under the division.

(b) The per capita cost of treatment and maintenance at each state institution for each fiscal year shall be based upon the budget of the state institution, plus the expenses of personal services and reasonable depreciation on buildings and equipment, as established by the general assembly or the division for the corresponding fiscal year.

As added by P.L.2-1992, SEC.18.

IC 12-24-13-4

Sec. 4. (a) Each patient in a state institution and the responsible parties of the patient, individually or collectively, shall pay for the ensuing fiscal year an amount not to exceed the per capita cost at that state institution.

(b) Except as provided in section 5 of this chapter, each patient in a state institution and the responsible parties, individually or collectively, are liable for the payment of the cost of treatment and maintenance of the patient.

As added by P.L.2-1992, SEC.18.

IC 12-24-13-5

Sec. 5. (a) Whenever placement of a child with a disability (as defined in IC 20-1-6-1) in a state institution is necessary for the provision of special education for that child, the cost of the child's education program, nonmedical care, and room and board shall be paid by the division rather than by the child's parents, guardian, or other responsible party.

(b) The child's parents, guardian, or other responsible party shall pay the cost of any transportation not

required by the child's individualized education program (as defined in IC 20-1-6-1). The school corporation in which the child has legal settlement (as determined by IC 20-8.1-6.1-1) shall pay the cost of transportation required by the student's individualized education program under IC 20-1-6-18.2. However, this section does not relieve an insurer or other third party from an otherwise valid obligation to provide or pay for the services provided to the child.

(c) The Indiana state board of education and the divisions shall jointly establish a procedure and standards for determining when placement in a state institution is necessary for the provision of special education for a child.

As added by P.L.2-1992, SEC.18. Amended by P.L.23-1993, SEC.56.

IC 12-24-13-6

Sec. 6. The division of family and children or a county office is responsible for the cost of treatment or maintenance of a child under the division's or county office's custody or supervision who is placed in a state institution only if the cost is reimbursable under the state Medicaid program under IC 12-15.

As added by P.L.2-1992, SEC.18. Amended by P.L.4-1993, SEC.201; P.L.5-1993, SEC.214.

IC 12-24-13-7

Sec. 7. If a patient in a state institution has insurance coverage that covers hospitalization or medical services in psychiatric hospitals, all benefits under the insurance coverage, in an amount not to exceed the cost of treatment and maintenance of the patient, shall be assigned to the appropriate division.

As added by P.L.2-1992, SEC.18.

IC 12-24-13-8

Sec. 8. (a) A charge shall be assessed for day or night care services provided by a state institution in an amount not to exceed one-half (1/2) of the per capita cost for care at that state institution as computed under this chapter.

(b) For the purposes of the fiscal year computation of the per capita cost of care and maintenance, a day or night care patient shall be counted as a one-half (1/2) day patient.

As added by P.L.2-1992, SEC.18.

IC 12-24-13-9

Sec. 9. Outpatient services provided by a state institution must be based upon the average per capita cost of each service or program at the state institution.

As added by P.L.2-1992, SEC.18.

IC 12-24-13-10

Sec. 10. The appropriate division shall issue to any party liable under this chapter for any type of psychiatric service statements of sums due as maintenance charges. The division shall require the liable party to pay monthly, quarterly, or otherwise as may be arranged an amount not exceeding the maximum cost as determined under this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-13-11

Sec. 11. The estate of a patient who receives care, treatment, maintenance, or any other service furnished by the division at the state's expense is liable for payment of the cost of the service. The estate is exempt from the requirements of section 10 of this chapter or any part of this chapter directly in conflict with the intent of the chapter to hold a patient's estate liable for payment.

As added by P.L.2-1992, SEC.18.

IC 12-24-14

Chapter 14. Collection of Charges for Treatment and Maintenance of Patients

IC 12-24-14-1

Sec. 1. As used in this chapter, "fund" refers to the mental health fund established by this chapter.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-2

Sec. 2. The billing and collection of maintenance expenses under this article shall be made by the division or a unit of the division designated by the director.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-3

Sec. 3. Money collected shall be deposited each day by the division in a designated public depository.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-4

Sec. 4. On the first day of each month, or within three (3) days thereafter, all money deposited under section 3 of this chapter shall be forwarded by the division to the treasurer of state to be deposited in a special fund to be known as the mental health fund.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-5

Sec. 5. The division may do the following:

- (1) Investigate, either with division staff or on a contractual or other basis, the financial condition of each person liable under this chapter.
- (2) Make determinations of the ability of the patient and the responsible parties to pay maintenance charges.
- (3) Set a standard as a basis of judgment of ability to pay. The standard shall be recomputed periodically to reflect changes in the cost of living and other pertinent factors and to make provisions for unusual and exceptional circumstances in the application of the standard.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-6

Sec. 6. (a) The division may, upon receipt of a properly executed application, agree to accept payment at a lesser rate than that prescribed under this article.

(b) The division shall, in determining whether to accept the lesser amount under this section, take into consideration the possibility of reimbursement from the estate of the patient and the estates of responsible parties.

(c) All agreements to accept a lesser amount under this section are subject to cancellation or modification if any of the following conditions exist:

- (1) Material misrepresentation or omission of facts.
- (2) Substantial and continuing change in the financial circumstances of the responsible party with whom the agreement is made within five (5) years after discharge.
- (d) A person who has been issued a bill for maintenance charges based upon a lesser rate than that prescribed by this article may request the division to review the agreement. If an acceptable rate cannot otherwise be established, the division shall provide for hearings to be held upon request.
- (e) The division may modify an agreement made under this section after the hearing held under subsection (d).

(f) This section does not prohibit the division from receiving reimbursement under 42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.

As added by P.L.2-1992, SEC.18.

IC 12-24-14-7

Sec. 7. The division may accept more money than is owed if a person desires to pay more.

As added by P.L.2-1992, SEC.18

IC 12-24-15**Chapter 15. Legal Process for Recovery of Treatment and Maintenance Charges****IC 12-24-15-1**

Sec. 1. The liability created by this article for payment of any type of cost of treatment and maintenance of a patient constitutes a lien upon the real property of the patient and responsible parties of the patient whenever the lien has been recorded according to this chapter. The lien has priority over all liens subsequently acquired.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-2

Sec. 2. (a) If charges for the cost of treatment and maintenance of a patient remain unpaid in whole for three (3) months or in part for six (6) months, the appropriate division may file, in the office of the county recorder of the county in which the real property is located, the following:

- (1) A notice of lien designating the name and place of residence of the patient or responsible party against whose property the lien is asserted.
- (2) The date when the charges became delinquent.
- (3) A legal description of the real property subject to the lien.

- (b) The county auditor or assessor of a county shall, upon request by the division, do the following:
- (1) Give notice of all real property in the county registered to the patient or responsible parties.
 - (2) Furnish the division the legal description and address of all property so registered.
- (c) One (1) copy of the notice of lien shall be retained by and filed in the offices of the division, and one (1) copy shall be furnished to the patient or responsible party whose real property is affected.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-3

Sec. 3. (a) From the date on which the notice of lien is recorded in the office of the county recorder, the notice of lien:

- (1) constitutes due notice of a lien against the patient or responsible party or the patient's estate for any amount then recoverable and any amounts that become recoverable under this article; and
 - (2) gives a specific lien in favor of the division.
- (b) The lien continues from the date of filing until the lien is satisfied or released.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-4

YAMD.1992

Sec. 4. (a) The clerk of the circuit court for each county shall give notice to the director of the appropriate division of the opening or commencement of a decedent's estate in the county.

(b) The attorney general shall, upon notification by the division, bring suit in the name of the state on relation of the division against the estate of the patient or a responsible party failing to make payments as required under this article.

(c) If a judgment is obtained in a suit brought under subsection (b), the judgment constitutes a lien against the part of the estate of the person described in the complaint.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-5

Sec. 5. (a) The attorney general may bring suit against:

- (1) the patient;
- (2) the responsible parties of the patient; or
- (3) the legal guardian of the patient;

for failure to comply with a maintenance agreement established or for failure to make a maintenance agreement. Suit may be brought for the amount due the state for the maintenance charges of the patient.

(b) The court may order the payment of amounts due for maintenance charges for the periods that the circumstances require. The order may be entered against any of the defendants and may be based upon the proportionate ability of each defendant to contribute to the payment of sums representing maintenance charges.

(c) Orders for the payment of money may be enforced by attachments as in contempt proceedings against the defendants, and costs may be adjudged against and apportioned among the defendants.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-6

Sec. 6. (a) Except as provided in subsection (b), the absence of a suit authorized in section 5 of this chapter does not bar a division from enforcing its claim against the estate of a patient or the responsible parties of the patient if the conditions of IC 12-24-13 have been met.

(b) A claim against a patient or the responsible parties of the patient becomes void on the tenth anniversary of the patient's discharge if the diagnosis of the patient was mental illness or developmental disability, or both.

As added by P.L.2-1992, SEC.18. Amended by P.L.81-1994, SEC.1.

IC 12-24-15-7

Sec. 7. The attorney general may bring proceedings in foreclosure on a lien arising under this chapter during the lifetime of the patient or responsible party when, in the opinion of the director, it is in the best interest of the division to foreclose on the lien.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-8

Sec. 8. (a) Upon the death of a patient or responsible party whose property is encumbered by a lien arising under this chapter and upon notification by the director, the attorney general shall file a claim in the estate of the patient or responsible party for recovery of all charges for

treatment and maintenance that have accrued at the date of death.

(b) Notwithstanding any other law, a claim filed for recovery of charges for treatment and maintenance has priority in order of payment from the estate over all other claims except prior recorded encumbrances, taxes, reasonable costs of administration, and reasonable funeral expenses.

(c) If the real property of the deceased patient or responsible relative is occupied by a surviving spouse of the patient or responsible party, the director may not assert a lien or claim during the lifetime of the surviving spouse, except as provided in subsection (d).

(d) The division shall file a claim for recovery of costs of treatment and maintenance if:

(1) another claimant or person has opened an estate and is attempting to enforce a claim; or

(2) a fraudulent attempt is made to avoid the claim or lien.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-9

Sec. 9. (a) Upon the death of a patient or a responsible party of the patient who is indebted to the state for any unpaid maintenance charges, whether or not secured by a lien, the attorney general shall file a claim against the estate of the patient or any responsible party for recovery of all charges for treatment and maintenance that have accrued at the date of death.

(b) Notwithstanding any other law, a claim filed under this section has priority except prior recorded encumbrances, taxes, reasonable costs of administration, and reasonable funeral expenses.

(c) Limitations of actions do not bar a division, except:

(1) as to sureties; and

(2) as provided in section 6 of this chapter.

As added by P.L.2-1992, SEC.18. Amended by P.L.81-1994, SEC.2.

IC 12-24-15-10

Sec. 10. The governor may, with the approval of the attorney general, agree to accept a lesser payment than that established by this article if it is found after investigation that the estate of a patient or responsible party is insufficient to pay the amount established.

As added by P.L.2-1992, SEC.18.

IC 12-24-15-11

Sec. 11. This article does not affect any pending litigation or rights or privileges that accrued before June 1, 1981. However, a claim for services provided before June 1, 1981, against a patient or the responsible parties of the patient becomes void on the tenth anniversary of the patient's discharge if the diagnosis of the patient was mental illness or developmental disability, or both.

As added by P.L.2-1992, SEC.18. Amended by P.L.81-1994, SEC.3.

IC 12-24-16

Chapter 16. Taxable Costs and Expenses

IC 12-24-16-1

Sec. 1. This chapter applies to taxable costs and expenses under the following statutes:

(1) IC 12-24-8.

(2) IC 12-24-9.

(3) IC 12-24-17-8.

As added by P.L.2-1992, SEC.18.

IC 12-24-16-2

Sec. 2. The taxable costs and expenses to be paid are as follows:

(1) To the physician for making the statement accompanying the allegation of insanity, an amount to be fixed by the court not more than ten dollars (\$10).

(2) To the two (2) medical examiners for making out the certificate and attending the hearing, an amount to be fixed by the court not more than ten dollars (\$10). The two (2) medical examiners shall be allowed, for each mile necessarily traveled in making the examination or attending the hearing, an amount for mileage equal to the amount per mile currently paid to state officers and employees.

(3) To other witnesses, the same fees as are allowed by law in other cases in the circuit court.

(4) To the clerk of the circuit court, the same fees as are allowed by law for similar services in other cases.

(5) To the sheriff, for serving process and attending the hearing, the same fees as are allowed by law for similar services in other cases, and for taking a patient to the hospital, or removing a patient from the hospital, upon warrant of the clerk, one dollar and fifty cents (\$1.50) per day for the support of each patient

on the way to and from the hospital, and an amount for mileage equal to the amount per mile paid to state officers and employees.

(6) To each assistant allowed by the judge and accompanying the sheriff, with computation in both instances to be made from the county seat to the hospital by the nearest route, an amount for mileage equal to the amount per mile paid to state officers and employees.

(7) To other persons discharging the duties of sheriff, as provided by this article, the same fees as are allowed in this section to the sheriff. To the assistants of the person, the same fees as are allowed in this section to the assistants of the sheriff.

As added by P.L.2-1992, SEC.18.

IC 12-24-16-3

Sec. 3. The costs specified in this chapter shall be paid out of the county general fund upon the certificate of the circuit court clerk and the warrant of the county auditor.

As added by P.L.2-1992, SEC.18.

IC 12-24-17

Chapter 17. Offenses

IC 12-24-17-1

Sec. 1. (a) As used in this chapter, "administrator" means a person who is the administrative head of a hospital, a sanitarium, an institution, an agency, or an instrumentality:

(1) maintained or provided by the United States or an agency or instrumentality of the United States; and
(2) where mental illnesses or developmental disabilities are treated.

(b) The term, for purposes of this chapter and a court order, includes successors in office.

As added by P.L.2-1992, SEC.18. Amended by P.L.6-1995, SEC.19.

IC 12-24-17-2

Sec. 2. As used in this chapter, "patient" means an individual who:

(1) is mentally ill or appears to be mentally ill;
(2) is in or under the supervision and control of a state institution; or
(3) because of mental illness, is under the supervision and control of a circuit or superior court of Indiana.

As added by P.L.2-1992, SEC.18.

IC 12-24-17-3

Sec. 3. A person who:

(1) neglects, when the person has a duty of care;
(2) abuses; or
(3) maltreats;

a mentally ill individual or an individual with a developmental disability under the care of a state institution commits a Class B misdemeanor.

As added by P.L.2-1992, SEC.18. Amended by P.L.6-1995, SEC.20.

IC 12-24-17-4

Sec. 4. A person who:

(1) knows of an alleged violation of section 3 of this chapter; and
(2) fails to make a written report to the superintendent within twenty-four (24) hours of the alleged violation;

commits a Class A infraction.

As added by P.L.2-1992, SEC.18.

IC 12-24-17-5

YAMD.1997

Sec. 5. (a) A superintendent who receives a written report of an alleged violation of section 3 of this chapter shall begin an investigation within twenty-four (24) hours after receipt of the written report.

(b) In accordance with IC 31-33, the superintendent shall report the alleged violation of section 3 of this chapter to either of the following:

(1) The local child protection service established within the county office if the alleged victim is less than eighteen (18) years of age.
(2) The adult protective services unit designated under IC 12-10-3 if the alleged victim is at least eighteen (18) years of age.

As added by P.L.2-1992, SEC.18. Amended by P.L.4-1993, SEC.202; P.L.5-1993, SEC.215; P.L.1-1997, SEC.85.

IC 12-24-17-6

Sec. 6. An employee of a state institution who does any of the following commits a Class B misdemeanor:

- (1) Knowingly deals with, contracts with, purchases from, or purchases for a patient in the state institution any property without the permission of the superintendent.
- (2) Lends to or borrows from a patient money or other property.

As added by P.L.2-1992, SEC.18.

IC 12-24-17-7

Sec. 7. A person who:

- (1) recklessly entices or takes a patient away; or
 - (2) aids, induces, or causes a patient to escape;
- from an administrator or a superintendent who has been granted custody of the patient commits a Class B misdemeanor.

As added by P.L.2-1992, SEC.18.

IC 12-24-17-8

Sec. 8. A person who knowingly or intentionally releases information concerning a patient's medical records or treatment under IC 12-24-11 or IC 16-39-2 without the knowing, written consent of the patient or the patient's parent or guardian commits a Class B infraction.

As added by P.L.2-1992, SEC.18. Amended by P.L.40-1994, SEC.53.

IC 12-24-18

Chapter 18. Conveyance of Undeveloped Real Property of State Institutions in Certain Counties

IC 12-24-18-1

Sec. 1. This chapter applies to a city having a population of more than thirty-nine thousand one hundred (39,100) but less than forty-six thousand (46,000).

As added by P.L.147-1993, SEC.1. Amended by P.L.170-2002, SEC.82.

IC 12-24-18-2

Sec. 2. This chapter applies only to real property that satisfies all of the following conditions:

- (1) The real property is owned by the state and under the control of a state institution.
- (2) The real property is undeveloped.
- (3) The executive of the city identifies the real property through a legal description of the property.
- (4) The state approves the legal description prepared under subdivision (3).

As added by P.L.147-1993, SEC.1.

IC 12-24-18-3

Sec. 3. (a) Subject to this section, the state shall convey or lease the real property to the city.

(b) The conveyance or lease required by this section may be made in one (1) or more transactions.

(c) The city must use the real property for economic development projects.

(d) The conveyance or lease shall be made under terms and for the consideration that is agreed upon between the city and the state. However, the terms must require that all payments made under the conveyance or lease must be made directly to and for the use of the state institution.

As added by P.L.147-1993, SEC.1. Amended by P.L.120-1996, SEC.1.

IC 12-24-18-4

Sec. 4. The state may lease any of the real property to the city pending the conveyance of the real property under this chapter.

As added by P.L.147-1993, SEC.1.

IC 12-24-18-5

Sec. 5. (a) The state may enter into appropriate contracts with the city related to the conveyance or lease of real property under this chapter.

(b) A contract entered into under this section or a deed given to the city to convey any of the real property under this chapter may contain any provision that the state considers necessary if the provision is consistent with this chapter.

(c) Notwithstanding any lease or conveyance authorized by this chapter, the state institution shall continue to cash rent the real property

for farming purposes until the city actually begins development of the real property for an economic development project.

As added by P.L.147-1993, SEC.1.

IC 12-24-18-6

Sec. 6. (a) Except as provided in this chapter, the procedures required by law for the state to:

- (1) enter into contracts affecting the state's real property; or
- (2) convey or lease the state's real property;

apply to a contract, conveyance, or lease under this chapter.

(b) Notwithstanding any other law, if the state sells or leases real property under this chapter, the proceeds from that sale or lease are reappropriated to the state institution.

(c) The proceeds from the sale or lease of real property under this chapter may not reduce the amount of state appropriations otherwise available to the state institution.

As added by P.L.147-1993, SEC.1. Amended by P.L.120-1996, SEC.2.

IC 12-24-19

Chapter 19. Community Care for Individuals With Mental Illness

IC 12-24-19-1

Sec. 1. (a) This chapter applies only to a patient who is transferred or discharged from a state institution administered by the division of mental health.

(b) This chapter does not apply to any of the following:

- (1) An individual who is admitted to a state institution only for evaluation purposes.
- (2) An individual who is incompetent to stand trial.
- (3) An individual who has a developmental disability (as defined in IC 12-7-2-61).
- (4) An individual in an alcohol and drug services program who is not concurrently diagnosed as mentally ill.
- (5) An individual who has escaped from the facility to which the individual was involuntarily committed.
- (6) An individual who was admitted to a facility for voluntary treatment and who has left the facility against the advice of the attending physician.

As added by P.L.40-1994, SEC.54.

IC 12-24-19-2

Sec. 2. (a) As used in this chapter, "case management" means goal oriented activities that locate, facilitate, provide access to, coordinate, or monitor the full range of basic human needs, treatment, and service resources for individual patients.

(b) The term includes where necessary and appropriate for the patient the following:

- (1) Assessment of the consumer.
- (2) Treatment planning.
- (3) Crisis assistance.
- (4) Providing access to and training the patients to utilize basic community resources.
- (5) Assistance in daily living.
- (6) Assistance for the patient to obtain services necessary for meeting basic human needs.
- (7) Monitoring of the overall service delivery.
- (8) Assistance in obtaining the following:
 - (A) Rehabilitation services and vocational opportunities.
 - (B) Respite care.
 - (C) Transportation.
 - (D) Education services.
 - (E) Health supplies and prescriptions.

As added by P.L.40-1994, SEC.54.

IC 12-24-19-3

Sec. 3. A patient shall be discharged or transferred from a state institution to the least restrictive setting:

- (1) when the discharge or transfer is appropriate to the patient's unique needs;
- (2) to prevent unnecessary and inappropriate hospitalization; and
- (3) in accordance with standards of professional practice.

As added by P.L.40-1994, SEC.54.

IC 12-24-19-4

Sec. 4. Within the limits of appropriated funds, the division shall provide by written contract a continuum of care in the community for appropriate patients who are discharged or transferred under this chapter that does the following:

- (1) Integrates services.
- (2) Facilitates provision of appropriate services to patients.
- (3) Ensures continuity of care, including case management, so that a patient is not discharged or transferred without adequate and appropriate community services.

As added by P.L.40-1994, SEC.54.

IC 12-24-19-5

Sec. 5. To the extent possible, the director shall maximize the amount of federal funding and other nonstate funds available for providing the continuum of care in the community required by this chapter.

As added by P.L.40-1994, SEC.54.

IC 12-24-19-6

Sec. 6. The director shall do the following to facilitate the timely development and delivery of community services:

- (1) Adopt rules under IC 4-22-2.
- (2) Develop policies and administrative practices.

As added by P.L.40-1994, SEC.54.

IC 12-24-19-7

Sec. 7. (a) As used in this section, "transitional care" means temporary treatment services to facilitate an individual's:

- (1) transfer from a mental health institution to a community residential setting; or
- (2) discharge from a mental health institution.
- (b) The transitional care program shall assist consumers in making a smooth adjustment to community living and operate in collaboration with a managed care provider of services in the consumer's home area.
- (c) Resources for the program shall come from the total appropriation for the facility, and may be adjusted to meet the needs of consumer demand by the director.
- (d) Each state institution administered by the division of mental health shall establish a transitional care program with adequate staffing patterns and employee skill levels for patients' transitional care needs where clinically appropriate.
- (e) The transitional care program shall be staffed by transitional care specialists and at least one (1) transitional care case manager.
- (f) A transitional care case manager must have at least a bachelor's degree and be trained in transitional care.
- (g) Psychiatric attendants working in this program shall be trained, classified, and compensated as appropriate for a transitional care specialist.

As added by P.L.40-1994, SEC.54.

IC 12-25**ARTICLE 25. LICENSURE OF PRIVATE MENTAL HEALTH INSTITUTIONS****IC 12-25-1****Chapter 1. Licensure Requirement****IC 12-25-1-1**

Sec. 1. A private institution for the treatment and care of individuals with psychiatric disorders, developmental disabilities, convulsive disturbances, or other abnormal mental conditions must meet the following conditions:

- (1) Employ physicians holding an unlimited license to practice medicine available for medical care that individuals may reasonably be expected to need.
- (2) Have the facilities and accommodations that the individuals may reasonably be expected to need.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-2

Sec. 2. The standards of treatment and care to be maintained must be appropriate under existing knowledge

of the needs of the individuals, as determined by the director. The director shall prescribe minimum standards for the private institutions and for the care and treatment provided in the private institutions as set forth in IC 12-21-2-3(5).

As added by P.L.2-1992, SEC.19.

IC 12-25-1-3

Sec. 3. A person must hold a license issued by the director to establish, conduct, operate, or maintain a private institution under any name for the treatment and care of individuals with psychiatric disorders, developmental disabilities, convulsive disturbances, or other abnormal mental conditions.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-4

Sec. 4. To obtain a license, an applicant must submit an application on a form prepared by the director showing that the applicant is of reputable and responsible character and able to comply with the following:

- (1) The minimum standards for the institution.
- (2) Rules adopted under IC 12-21-2-3(5).

As added by P.L.2-1992, SEC.19.

IC 12-25-1-5

Sec. 5. An application must contain the following additional information:

- (1) The name of the applicant.
- (2) The type of institutions to be operated.
- (3) The location of the institution.
- (4) The name of the person to be in charge of the institution.
- (5) Any other information the director requires.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-6

Sec. 6. The director may:

- (1) issue a license upon an application without further evidence; or
- (2) conduct a hearing on the application and conduct an investigation to determine whether a license should be granted.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-7

Sec. 7. If after a hearing the director finds that a license should not be granted, the director shall notify the applicant, giving the reason for the finding.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-8

Sec. 8. If after a hearing the director finds that an applicant complies and will in the future comply with this article and the rules adopted under IC 12-21-2-3(5), the director shall issue a license to the applicant to operate the institution.

As added by P.L.2-1992, SEC.19.

IC 12-25-1-9

Sec. 9. A license to operate an institution:

- (1) expires one (1) year after the date of issuance;
- (2) is not assignable or transferable;
- (3) shall be issued only for the premises named in the application;
- (4) shall be posted in a conspicuous place in the institution; and
- (5) is renewable on an annual basis.

As added by P.L.2-1992, SEC.19.

IC 12-25-2

Chapter 2. Suspension or Revocation of License

IC 12-25-2-1

Sec. 1. The director may suspend or revoke a license issued under this article on any of the following grounds:

- (1) Violation of a provision of this article or the rules adopted under IC 12-21-2-3(5).
- (2) Permitting, aiding, or abetting the commission of an illegal act in the institution.
- (3) Conduct or practice found by the director to be detrimental to the welfare of individuals in the

institution.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-2

Sec. 2. To suspend or revoke a license, the director must file a complaint stating facts constituting grounds for revocation or suspension.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-3

Sec. 3. A licensee is entitled to notice of not less than thirty (30) days of the time and place for a hearing before the director on the complaint. The notice shall be sent by registered mail to the licensee at the address shown in the licensee's application.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-4

Sec. 4. The licensee is entitled to be represented by legal counsel at the hearing.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-5

Sec. 5. The director, after a hearing, may suspend or revoke the license.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-6

Sec. 6. If the director suspends a license, the director may also recommend the conditions to be met by the licensee during the period of suspension to entitle the licensee to resume operation of the institution on the existing license.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-7

Sec. 7. If the director suspends or revokes a license, the director shall enter an order in accordance with the suspension or revocation in which the grounds of the suspension or revocation are set forth.

As added by P.L.2-1992, SEC.19.

IC 12-25-2-8

Sec. 8. (a) The director may, after a hearing, hold a case under advisement and make a recommendation of the requirements to be met by the licensee to avoid suspension or revocation. The director shall enter an order accordingly and notify the licensee of the finding by registered mail.

(b) If the licensee complies with the order and proves that fact to the satisfaction of the director, the director shall enter an order showing satisfactory compliance and dismissing the case because of the compliance.

As added by P.L.2-1992, SEC.19.

IC 12-25-3

Chapter 3. Appeal Procedure

IC 12-25-3-1

Sec. 1. A licensee or an applicant for a license aggrieved by an action of the director may appeal the action to the circuit or superior court in the county in which the institution in question is located or is proposed to be located by filing a notice and bond in the amount of two hundred dollars (\$200) for the payment of costs in the office of the circuit court clerk of the county.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-2

Sec. 2. The circuit court clerk shall notify the director that the appeal has been taken.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-3

Sec. 3. The director shall cause to be certified to the appropriate court a copy of:

- (1) the complaint and the order for a suspension or revocation; or
- (2) the application and order of refusal of a license.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-4

Sec. 4. (a) The case shall be docketed as a civil action, with the applicant or licensee as the plaintiff and the director as the defendant.

(b) No further pleading is necessary.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-5

Sec. 5. The court has jurisdiction to the extent that courts exercise jurisdiction over administrative bodies and may enter an order either sustaining the action of the director or setting the action aside.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-6

Sec. 6. The circuit court clerk shall certify to the director a copy of the decision of the court.

As added by P.L.2-1992, SEC.19.

IC 12-25-3-7

YAMD.1992

Sec. 7. An appeal may be made by the aggrieved party from the decision of the court.

As added by P.L.2-1992, SEC.19.

IC 12-25-4**Chapter 4. Injunction Procedure****IC 12-25-4-1**

Sec. 1. The director may, in accordance with the laws governing injunctions, maintain an action in the name of the state to enjoin a person from establishing, conducting, managing, or operating an institution for the treatment and care of persons with psychiatric disorders, developmental disabilities, convulsive disturbances, or other abnormal mental conditions without having a license as required by this article.

As added by P.L.2-1992, SEC.19.

IC 12-25-4-2

Sec. 2. In charging a defendant in a complaint for an injunction, it is sufficient to allege that the person did upon a certain day and in a certain county establish, conduct, manage, or operate the institution without having a license to do so. The director need not aver any further or more particular facts concerning the matter.

As added by P.L.2-1992, SEC.19.

IC 12-26

**ARTICLE 26. VOLUNTARY AND INVOLUNTARY
TREATMENT OF MENTALLY ILL INDIVIDUALS**

IC 12-26-1**Chapter 1. Jurisdiction and Procedure****IC 12-26-1-1**

Sec. 1. An individual who is mentally ill and either dangerous or gravely disabled may be involuntarily detained or committed under any of the following statutes:

- (1) IC 12-26-4 (immediate detention).
- (2) IC 12-26-5 (emergency detention).
- (3) IC 12-26-6 (temporary commitment).
- (4) IC 12-26-7 (regular commitment).

As added by P.L.2-1992, SEC.20.

IC 12-26-1-2

Sec. 2. Except as provided in sections 3 and 4 of this chapter, the following Indiana courts have jurisdiction over a proceeding under this article:

- (1) A court having probate jurisdiction.
- (2) A superior court in a county in which the circuit court has exclusive probate jurisdiction.
- (3) A mental health division of a superior court to the extent the mental health division has jurisdiction under IC 33-5.1-2-4.

As added by P.L.2-1992, SEC.20. Amended by P.L.16-1995, SEC.4.

IC 12-26-1-3

Sec. 3. A court that conducted the trial has jurisdiction over a hearing required to be held by IC 35-36-2-4. The court retains jurisdiction over the individual held under IC 35-36-2-4 until the completion of the commitment hearing. After completion of the commitment hearing, jurisdiction is transferred to a court having jurisdiction under section 2 of this chapter and all subsequent petitions or motions shall be filed with

the court to which the proceeding is transferred. The file of the commitment hearing also shall be transferred from the committing court to the court having probate jurisdiction.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-4

Sec. 4. (a) A juvenile court has concurrent jurisdiction over proceedings under this article that involve a child.

(b) The juvenile court may not commit or temporarily place a child under this article in a facility other than a child caring institution. If the juvenile court determines that commitment or temporary placement of a child in another facility is necessary, the juvenile court shall transfer the proceeding to a court having probate jurisdiction.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-5

Sec. 5. (a) If a commitment proceeding is begun under IC 12-26-3-5, IC 12-26-6-2(a)(1), or IC 12-26-6-2(a)(3), the court acquires jurisdiction over the alleged mentally ill individual by service of summons on the individual according to the Indiana Rules of Trial Procedure or by entry of an appearance by the individual.

(b) If an individual is being held under IC 12-26-6-2(a)(2), the court retains jurisdiction over the individual by the court's order for continued detention.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-6

Sec. 6. Except as otherwise provided, a judicial proceeding under this article shall be conducted as other civil proceedings according to the Indiana Rules of Trial Procedure.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-7

Sec. 7. (a) This section does not apply in the following statutes:

- (1) IC 12-26-4.
- (2) IC 12-26-11.
- (3) IC 12-26-12.

(b) This section does not apply to computation of a period during which an individual may be detained under this article.

(c) In computing time under this article, Saturdays, Sundays, and legal holidays are not included in the computation if the time prescribed is less than fourteen (14) days.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-8

Sec. 8. Upon the filing of a petition for commitment under IC 12-26-6 or IC 12-26-7 or the filing of a report under IC 12-26-3-5, the individual may be detained in an appropriate facility:

- (1) by an order of the court pending a hearing; or
- (2) pending an order of the court under:
 - (A) IC 12-26-3-6;
 - (B) IC 12-26-5-10; or
 - (C) IC 12-26-5-11.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-9

Sec. 9. (a) In a proceeding involving involuntary detention or commitment under this article, appeals from the final orders or judgments of the court of original jurisdiction may be taken by any of the following:

- (1) The individual who is the subject of the proceeding.
- (2) A petitioner in the proceeding.
- (3) An aggrieved person.

(b) An appeal must be taken in the same manner as any other civil case according to the Indiana Rules of Trial and Appellate Procedure.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-10

Sec. 10. Each division shall adopt rules under IC 4-22-2 to administer this article.

As added by P.L.2-1992, SEC.20.

IC 12-26-1-11

Sec. 11. Each division shall prescribe the forms that must be used to administer this article.

As added by P.L.2-1992, SEC.20.

IC 12-26-2**Chapter 2. Rights of Persons****IC 12-26-2-1**

Sec. 1. This article does not limit or restrict the right of a person to apply to an appropriate court for a writ of habeas corpus.

As added by P.L.2-1992, SEC.20.

IC 12-26-2-2

Sec. 2. (a) This section applies under the following statutes:

- (1) IC 12-26-6.
- (2) IC 12-26-7.
- (3) IC 12-26-12.
- (4) IC 12-26-15.

(b) The individual alleged to be mentally ill has the following rights:

(1) To receive adequate notice of a hearing so that the individual or the individual's attorney can prepare for the hearing.

(2) To receive a copy of a petition or an order relating to the individual.

(3) To be present at a hearing relating to the individual. The individual's right under this subdivision is subject to the court's right to do the following:

(A) Remove the individual if the individual is disruptive to the proceedings.

(B) Waive the individual's presence at a hearing if the individual's presence would be injurious to the individual's mental health or well-being.

(4) To be represented by counsel.

As added by P.L.2-1992, SEC.20.

IC 12-26-2-3

Sec. 3. (a) This section applies under the following statutes:

- (1) IC 12-26-6.
- (2) IC 12-26-7.
- (3) IC 12-26-12.
- (4) IC 12-26-15.

(b) The individual alleged to be mentally ill, each petitioner, and all other interested individuals shall be given an opportunity to appear at hearings and to testify.

(c) The individual alleged to be mentally ill and each petitioner may present and cross-examine witnesses at hearings.

(d) The court may receive the testimony of any individual.

As added by P.L.2-1992, SEC.20.

IC 12-26-2-4

YAMD.1992

Sec. 4. (a) This section applies under the following statutes:

- (1) IC 12-26-6.
- (2) IC 12-26-7.
- (3) IC 12-26-12.
- (4) IC 12-26-15.

(b) The individual alleged to be mentally ill and a petitioner:

(1) has a right to a change of judge; and

(2) is not entitled to a change of venue from the county.

As added by P.L.2-1992, SEC.20.

IC 12-26-2-5

Sec. 5. (a) This section applies under the following statutes:

- (1) IC 12-26-6.
- (2) IC 12-26-7.
- (3) IC 12-26-12.
- (4) IC 12-26-15.

(b) A petitioner may be represented by counsel.

(c) The court may appoint counsel for a petitioner upon a showing of the petitioner's indigency and the

court shall pay for such counsel if appointed.

(d) A petitioner, including a petitioner who is a health care provider under IC 16-18-2-295(a), in the petitioner's individual capacity or as a corporation is not required to be represented by counsel. If a petitioner who is a corporation elects not to be represented by counsel, the individual representing the corporation at the commitment hearing must present the court with written authorization from:

- (1) an officer;
- (2) a director;
- (3) a principal; or
- (4) a manager;

of the corporation that authorizes the individual to represent the interest of the corporation in the proceedings.

(e) The petitioner is required to prove by clear and convincing evidence that:

- (1) the individual is mentally ill and either dangerous or gravely disabled; and
- (2) detention or commitment of that individual is appropriate.

As added by P.L.2-1992, SEC.20. Amended by P.L.1-1993, SEC.152; P.L.2-1995, SEC.60; P.L.6-1995, SEC.21; P.L.256-1999, SEC.2.

IC 12-26-2-6

Sec. 6. (a) A person who without malice, bad faith, or negligence acts according to this article and:

- (1) participates in proceedings for the detention or commitment of an individual; or
 - (2) assists in the detention, care, and treatment of an individual alleged or adjudged to be mentally ill;
- is immune from any civil or criminal liability that might otherwise be imposed as a result of the person's actions.

(b) The immunity provided by this section does not permit a person to do either of the following:

- (1) Physically abuse an individual.
- (2) Deprive an individual of a personal or civil right except according to this article.

As added by P.L.2-1992, SEC.20.

IC 12-26-2-7

Sec. 7. Except for gross misconduct, if a child's advocate performs the advocate's duties in good faith, the advocate is immune from any civil liability that may occur as a result of the advocate's performance of duties.

As added by P.L.2-1992, SEC.20.

IC 12-26-2-8

Sec. 8. (a) Detention or commitment of an individual under this article does not deprive the individual of any of the following:

(1) The right to do the following:

- (A) Dispose of property.
- (B) Execute instruments.
- (C) Make purchases.
- (D) Enter into contracts.
- (E) Give testimony in a court of law.
- (F) Vote.

(2) A right of a citizen not listed in subdivision (1).

(b) A procedure is not required for restoration of rights of citizenship of an individual detained or committed under this article.

As added by P.L.2-1992, SEC.20.

IC 12-26-2-9

Sec. 9. (a) The superintendent of a state institution may decline to admit an individual if the superintendent determines that there is not available adequate space, treatment staff, and treatment services appropriate to the needs of the individual.

(b) If an individual is refused admission under subsection (a), the commitment shall be transferred to the appropriate division. The division shall make arrangements for the individual's admission to an appropriate facility.

As added by P.L.2-1992, SEC.20. Amended by P.L.6-1995, SEC.22

IC 12-26-3

Chapter 3. Voluntary Treatment

IC 12-26-3-1

Sec. 1. The superintendent of a facility or an individual's attending physician may admit an Indiana resident who:

- (1) is mentally ill or has symptoms of mental illness; and
- (2) makes an appropriate application; for observation, diagnosis, care, or treatment.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-2

Sec. 2. (a) If an individual is less than eighteen (18) years of age, an application under this chapter may be made by the individual's parent or legal guardian.

(b) If an individual is at least eighteen (18) years of age and has a legal guardian, that individual may not be admitted by the individual's legal guardian to a state institution under this chapter.

As added by P.L.2-1992, SEC.20. Amended by P.L.6-1995, SEC.23.

IC 12-26-3-3

Sec. 3. The superintendent or an individual's attending physician may discharge an individual admitted under this chapter if the superintendent or the attending physician determines that:

- (1) care in the facility is not necessary; or
- (2) the discharge would contribute to the most effective use of the facility for the care and treatment of the mentally ill.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-4

Sec. 4. Except as provided in section 5 of this chapter, an individual who has been admitted to a facility under this chapter shall be released within twenty-four (24) hours of a written request for release made to the superintendent or the individual's attending physician by:

- (1) the individual; or
- (2) if the individual is less than eighteen (18) years of age, the parent or guardian who applied for the individual's admission to the facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-5

Sec. 5. (a) The superintendent or the attending physician is not required to release an individual under section 4 of this chapter if the superintendent or the attending physician has reason to believe the individual is mentally ill and either dangerous or gravely disabled.

(b) If the superintendent or the attending physician makes a determination under subsection (a), the superintendent or the attending physician must make a written report to a court:

- (1) that has jurisdiction;
- (2) in the county:
 - (A) of the residence of the individual; or
 - (B) where the facility is located; and
- (3) not later than five (5) days of receiving the request made under section 4 of this chapter.

(c) A report under subsection (b) must:

- (1) state that there is probable cause to believe that the individual is mentally ill and either dangerous or gravely disabled;
- (2) state that the individual requires continuing care and treatment in the facility; and
- (3) request a hearing on the report.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-6

Sec. 6. The court shall, within two (2) days from the date of receiving a report made under section 5 of this chapter, do either of the following:

- (1) Set a preliminary hearing to determine if there is probable cause to believe that the individual is:
 - (A) mentally ill and either dangerous or gravely disabled; and
 - (B) in need of temporary or regular commitment.
- (2) Order a final hearing to be held within two (2) days of the order to determine if the individual is:
 - (A) mentally ill and either dangerous or gravely disabled; and
 - (B) in need of temporary or regular commitment.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-7

Sec. 7. (a) A physician's statement may be introduced into evidence at the preliminary hearing without the presence of the physician.

(b) A finding of probable cause may not be entered at the preliminary hearing unless there is oral testimony:

(1) subject to cross-examination;

(2) of at least one (1) witness who:

(A) has personally observed the behavior of the individual; and

(B) will testify as to facts supporting a finding that there is probable cause to believe that the individual is in need of temporary or regular commitment.

(c) If after the preliminary hearing the court does not find probable cause, the individual shall be discharged immediately.

(d) If after the preliminary hearing the court finds probable cause to believe that the individual is in need of temporary or regular commitment, the court shall order the detention of the individual in an appropriate facility pending a final hearing.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-8

Sec. 8. (a) If the court sets a preliminary hearing under section 6(1) of this chapter, a final hearing shall be held not later than ten (10) days after the date of the preliminary hearing.

(b) At the final hearing, an individual may not be found in need of temporary or regular commitment unless at least one (1) physician who has personally examined the individual testifies at the hearing.

(c) The testimony required by subsection (b) may be waived by the individual if the waiver is voluntarily and knowingly given.

As added by P.L.2-1992, SEC.20.

IC 12-26-3-9

Sec. 9. (a) If an individual has not previously been the subject of a commitment proceeding, the court may only order temporary commitment.

(b) If an individual has previously been the subject of a commitment proceeding, the court may order a regular commitment if a longer period of treatment is warranted.

As added by P.L.2-1992, SEC.20.

IC 12-26-4**Chapter 4. Immediate Detention****IC 12-26-4-1**

Sec. 1. A law enforcement officer, having reasonable grounds to believe that an individual is mentally ill, dangerous, and in immediate need of hospitalization and treatment, may do the following:

(1) Apprehend and transport the individual to the nearest appropriate facility. The individual may not be transported to a state institution.

(2) Charge the individual with an offense if applicable.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.55.

IC 12-26-4-2

Sec. 2. A law enforcement officer who transports an individual to a facility under section 1 of this chapter shall submit to the facility a written statement containing the basis for the officer's conclusion that reasonable grounds exist under this chapter.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-3

Sec. 3. The statement required by section 2 of this chapter shall be filed with both of the following:

(1) The individual's records at the facility.

(2) The appropriate court if action relating to any charges filed by the officer against the individual is pursued.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-4

Sec. 4. The superintendent of the facility or a physician may furnish emergency treatment necessary to

preserve the health and safety of the individual detained.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-5

Sec. 5. Except as provided in section 6 of this chapter, an individual may not be detained under this chapter for more than twenty-four (24) hours from the time of admission to the facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-6

Sec. 6. If the superintendent or the attending physician believes the individual should be detained for more than twenty-four (24) hours from time of admission to the facility, the superintendent or the physician must have an application filed for emergency detention under IC 12-26-5 immediately upon the earlier of the following:

(1) A judge becomes available.

(2) Within seventy-two (72) hours of admission to the facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-7

Sec. 7. An individual detained under this chapter shall be discharged if either the attending physician or superintendent believes detention is no longer necessary.

As added by P.L.2-1992, SEC.20.

IC 12-26-4-8

Sec. 8. A period of detention under this chapter is in addition to a period of detention under IC 12-26-5.

As added by P.L.2-1992, SEC.20.

IC 12-26-5

Chapter 5. Emergency Detention

IC 12-26-5-1

Sec. 1. (a) An individual may be detained in a facility for not more than seventy-two (72) hours under this chapter, excluding Saturdays, Sundays, and legal holidays, if a written application for detention is filed with the facility. The individual may not be detained in a state institution unless the detention is instituted by the state institution.

(b) An application under subsection (a) must contain both of the following:

(1) A statement of the applicant's belief that the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of immediate restraint.

(2) A statement by at least one (1) physician that, based on:

(A) an examination; or

(B) information given the physician;

the individual may be mentally ill and either dangerous or gravely disabled.

As added by P.L.2-1992, SEC.20. Amended by P.L.1-1993, SEC.153; P.L.40-1994, SEC.56.

IC 12-26-5-2

Sec. 2. (a) If a judicial officer authorized to issue a warrant for arrest in the county in which the individual is present endorses an application made under section 1 of this chapter, the application authorizes a police officer to take the individual into custody and transport the individual to a facility.

(b) The expense of transportation under this section shall be paid by the county in which the individual is present.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-3

Sec. 3. An individual detained under this chapter may be examined and given emergency treatment necessary to do the following:

(1) Preserve the health and safety of the individual.

(2) Protect other persons and property.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-4

Sec. 4. If during a detention period under this chapter the superintendent or the attending physician determines that there is not probable cause to believe the individual is mentally ill and either dangerous or

gravely disabled, a report shall be made under section 5 of this chapter.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-5

Sec. 5. Before the end of a detention period under this chapter, the superintendent of the facility or the individual's attending physician shall make a written report to the court. The report must contain both of the following:

- (1) A statement that the individual has been examined.
- (2) A statement whether there is probable cause to believe that the individual:
 - (A) is mentally ill and either dangerous or gravely disabled; and
 - (B) requires continuing care and treatment.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-6

Sec. 6. (a) If a report made under section 5 of this chapter states there is not probable cause, the individual shall be discharged from the facility.

(b) The report shall be made part of the individual's record.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-7

Sec. 7. If a report made under section 5 of this chapter states there is probable cause, the report shall recommend both of the following:

- (1) That the court hold a hearing to determine whether:
 - (A) the individual is mentally ill and either dangerous or gravely disabled; and
 - (B) there is a need for continuing involuntary detention.
- (2) That the individual be detained in the facility pending the hearing.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-8

Sec. 8. The court shall consider and act upon a report described in section 7 of this chapter within twenty-four (24) hours of receiving the report.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-9

Sec. 9. (a) After receiving a report described in section 7 of this chapter, the court may do any of the following:

- (1) Order the individual released.
- (2) Order the individual's continued detention pending a preliminary hearing. The purpose of a hearing under this subdivision is to determine if there is probable cause to believe that the individual is:
 - (A) mentally ill and either dangerous or gravely disabled; and
 - (B) in need of temporary or regular commitment.
- (3) Order a final hearing. The purpose of a hearing ordered under this subdivision is to determine if the individual is:
 - (A) mentally ill and either dangerous or gravely disabled; and
 - (B) in need of temporary or regular commitment.
- (b) A hearing ordered under subsection (a) must be held not later than two (2) days after the order.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-10

Sec. 10. (a) A physician's statement may be introduced into evidence at the preliminary hearing held under section 9(a)(2) of this chapter without the presence of the physician.

(b) A finding of probable cause may not be entered at a preliminary hearing unless there is oral testimony:

- (1) subject to cross-examination; and
- (2) of at least one (1) witness who:
 - (A) has personally observed the behavior of the individual; and
 - (B) will testify to facts supporting a finding that there is probable cause to believe that the individual is in need of temporary or regular commitment.

(c) At the conclusion of the preliminary hearing, if the court does not find probable cause, the individual shall be immediately discharged.

(d) If the court finds at the conclusion of the preliminary hearing probable cause to believe that the individual needs temporary or regular commitment, the court shall order the detention of the individual in

an appropriate facility pending a final hearing.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-11

Sec. 11. (a) A final hearing required by section 10(d) of this chapter shall be held within ten (10) days of the date of the preliminary hearing.

(b) At a final hearing, an individual may not be found in need of temporary or regular commitment unless at least one (1) physician who has personally examined the individual testifies at the hearing. This testimony may be waived by the individual if the waiver is voluntarily and knowingly given.

(c) If an individual has not previously been the subject of a commitment proceeding, the court may order only a temporary commitment.

(d) If an individual has previously been the subject of a commitment proceeding, the court may order a regular commitment if a longer period of treatment is warranted.

As added by P.L.2-1992, SEC.20.

IC 12-26-5-12

Sec. 12. If it is determined that there was not probable cause to believe that an individual was mentally ill and dangerous when taken into custody and transported to the facility to be detained, the costs of transportation to and care and maintenance in the facility during the period of detention shall be paid by the county in which the individual was taken into custody.

As added by P.L.2-1992, SEC.20.

IC 12-26-6

Chapter 6. Temporary Commitment

IC 12-26-6-1

Sec. 1. An individual who is alleged to be mentally ill and either dangerous or gravely disabled may be committed to a facility for not more than ninety (90) days under this chapter.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-2

Sec. 2. (a) A commitment under this chapter may be begun by any of the following methods:

(1) Upon request of the superintendent under IC 12-26-3-5.

(2) An order of the court having jurisdiction over the individual following emergency detention.

(3) Filing a petition with a court having jurisdiction in the county:

(A) of residence of the individual; or

(B) where the individual may be found.

(b) A petitioner under subsection (a)(3) must be at least eighteen (18) years of age.

(c) A petition under subsection (a)(3) must include a physician's written statement stating both of the following:

(1) The physician has examined the individual within the past thirty (30) days.

(2) The physician believes the individual is:

(A) mentally ill and either dangerous or gravely disabled; and

(B) in need of custody, care, or treatment in an appropriate facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-3

Sec. 3. (a) Notice of a hearing under this chapter shall be given to all of the following:

(1) The individual.

(2) The petitioner.

(3) The superintendent or the chief executive officer of a facility having care or custody of the individual.

(b) The notice required by subsection (a) must state the time, place, and date of the hearing.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-4

Sec. 4. (a) Within three (3) days after a proceeding is begun under this chapter, the court shall enter an order setting a hearing date.

(b) If the proceeding was begun under section 2(a)(3) of this chapter, the hearing date set under subsection (a) must be more than one (1) day but less than fourteen (14) days from the date of notice.

(c) If the proceeding was begun under section 2(a)(1) or 2(a)(2) of this chapter, the hearing shall be held within ten (10) days after issuance of the order.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-5

Sec. 5. The court may hold the hearing at a facility or other suitable place not likely to have a harmful effect on the individual's health or well-being.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-6

Sec. 6. The court may appoint a physician to do the following:

- (1) Examine the individual.
- (2) Report, before the hearing, the physician's opinion as to the following:
 - (A) Whether the individual is mentally ill and either dangerous or gravely disabled.
 - (B) Whether the individual needs temporary commitment to a facility for diagnosis, care, and treatment.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-7

Sec. 7. If a report made under section 6 of this chapter is that the individual is not either dangerous or gravely disabled, the court may terminate the proceedings and dismiss the petition. Otherwise, the hearing shall proceed as scheduled or as continued by the court.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-8

Sec. 8. (a) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is mentally ill and either dangerous or gravely disabled, the court may order the individual to:

- (1) be committed to an appropriate facility; or
 - (2) enter an outpatient treatment program under IC 12-26-14 for a period of not more than ninety (90) days.
- (b) The court's order must require that the superintendent of the facility or the attending physician file a treatment plan with the court within fifteen (15) days of the individual's admission to the facility under a commitment order.
- (c) If the commitment ordered under subsection (a) is to a state institution administered by the division of mental health, the record of commitment proceedings must include a report from a community mental health center stating both of the following:
- (1) That the community mental health center has evaluated the individual.
 - (2) That commitment to a state institution administered by the division of mental health under this chapter is appropriate.
- (d) The physician who makes the statement required by section 2(c) of this chapter may be affiliated with the community mental health center that submits to the court the report required by subsection (c).
- (e) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital as set forth in IC 12-21-2-3, the report from a community mental health center is not required.
- (f) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability, aging, and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability, aging, and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability, aging, and rehabilitative services under this chapter is appropriate.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.57; P.L.6-1995, SEC.24; P.L.24-1997, SEC.57.

IC 12-26-6-9

Sec. 9. (a) Unless the court has entered an order under IC 12-26-12-1, the superintendent or the attending physician may discharge the individual before the end of the commitment period if the superintendent or attending physician determines that the individual is not mentally ill and either dangerous or gravely disabled.

(b) If an individual is discharged under subsection (a), the superintendent or the attending physician shall notify the court, and the court shall enter an order terminating the commitment.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-10

Sec. 10. (a) The period of commitment of an individual under this chapter may be extended for one (1) additional period of not more than ninety (90) days through a proceeding under this section.

(b) A proceeding under this section must be begun before the end of the first period of commitment.

(c) A proceeding under this section may be begun by filing with the court a report by the attending

physician or superintendent that states that the individual continues to be:

- (1) mentally ill and either dangerous or gravely disabled; and
- (2) in need of continuing custody, care, or treatment in the facility for an additional period of not more than ninety (90) days.

(d) Upon receiving a report under subsection (c), the court shall set a hearing on the report.

(e) The hearing required by subsection (d) must be held before the end of the current commitment period.

(f) Notice of the hearing required by subsection (d) shall be given to the committed individual and all other interested individuals at least five (5) days before the hearing date.

(g) A committed individual's rights and a petitioner's rights and hearing procedures are the same as those provided for the first period of commitment.

(h) If at the completion of the hearing and the consideration of the record the individual is found to be:

- (1) mentally ill and either dangerous or gravely disabled; and
- (2) in need of continuing custody, care, or treatment in the facility;

the court may order the individual's continuing custody, care, or treatment in the facility for one (1) additional period of not more than ninety (90) days.

As added by P.L.2-1992, SEC.20.

IC 12-26-6-11

Sec. 11. At least twenty (20) days before the end of the first or second temporary commitment period, the superintendent of the facility or the attending physician shall make a report to the court that states all of the following:

- (1) The mental condition of the individual.
- (2) Whether the individual is dangerous or gravely disabled.
- (3) Whether the individual needs continuing care and treatment in a facility for a period of more than ninety (90) days.

As added by P.L.2-1992, SEC.20.

IC 12-26-7

Chapter 7. Regular Commitment

IC 12-26-7-1

Sec. 1. This chapter applies to a proceeding for commitment of an individual:

- (1) alleged to be mentally ill and either dangerous or gravely disabled; and
- (2) whose commitment is reasonably expected to require custody, care, or treatment in a facility for more than ninety (90) days.

As added by P.L.2-1992, SEC.20.

IC 12-26-7-2

Sec. 2. (a) This section does not apply to the commitment of an individual if the individual has previously been committed under IC 12-26-6.

(b) A proceeding for the commitment of an individual who appears to be suffering from a chronic mental illness may be begun by filing with a court having jurisdiction a written petition by any of the following:

- (1) A health officer.
- (2) A police officer.
- (3) A friend of the individual.
- (4) A relative of the individual.
- (5) The spouse of the individual.
- (6) A guardian of the individual.
- (7) The superintendent of a facility where the individual is present.
- (8) A prosecuting attorney in accordance with IC 35-36-2-4.
- (9) A prosecuting attorney or the attorney for a county office if civil commitment proceedings are initiated under IC 31-34-19-3 or IC 31-37-18-3.

As added by P.L.2-1992, SEC.20. Amended by P.L.4-1993, SEC.203; P.L.5-1993, SEC.216; P.L.1-1997, SEC.86.

IC 12-26-7-3

Sec. 3. (a) A petition filed under section 2 of this chapter must include a physician's written statement that states both of the following:

- (1) The physician has examined the individual within the past thirty (30) days.

(2) The physician believes that the individual is:

- (A) mentally ill and either dangerous or gravely disabled; and
- (B) in need of custody, care, or treatment in a facility for a period expected to be more than ninety (90) days.

(b) Except as provided in subsection (d), if the commitment is to a state institution administered by the division of mental health, the record of the proceedings must include a report from a community mental health center stating both of the following:

- (1) The community mental health center has evaluated the individual.
- (2) Commitment to a state institution administered by the division of mental health under this chapter is appropriate.

(c) The physician who makes the statement required by subsection (a) may be affiliated with the community mental health center that makes the report required by subsection (b).

(d) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital, as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(e) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability, aging, and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability, aging, and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability, aging, and rehabilitative services under this chapter is appropriate.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.58; P.L.6-1995, SEC.25; P.L.24-1997, SEC.58.

IC 12-26-7-4

Sec. 4. (a) Upon receiving:

- (1) a petition under section 2 of this chapter; or
- (2) a report under IC 12-26-6-11 that recommends treatment in a facility for more than ninety (90) days; the court shall enter an order setting a hearing date.
- (b) If an individual is currently under a commitment order, the hearing required by subsection (a) must be held before the expiration of the current commitment period. Notice of a hearing under this subsection shall be given to the individual and all other interested persons at least five (5) days before the hearing date.
- (c) The rights of an individual who is the subject of a proceeding under this chapter and of a petitioner are the same as provided in IC 12-26-6.
- (d) Hearing procedures are the same as those provided in IC 12-26-6.

As added by P.L.2-1992, SEC.20.

IC 12-26-7-5

Sec. 5. (a) If at the completion of the hearing and the consideration of the record an individual is found to be mentally ill and either dangerous or gravely disabled, the court may enter either of the following orders:

- (1) For the individual's custody, care, or treatment, or continued custody, care, or treatment in an appropriate facility.
- (2) For the individual to enter an outpatient therapy program under IC 12-26-14.
- (b) An order entered under subsection (a) continues until any of the following occurs:
 - (1) The individual has been:
 - (A) discharged from the facility; or
 - (B) released from the therapy program.
 - (2) The court enters an order:
 - (A) terminating the commitment; or
 - (B) releasing the individual from the therapy program.

As added by P.L.2-1992, SEC.20.

IC 12-26-8

Chapter 8. Commitment of a Child

IC 12-26-8-1

Sec. 1. (a) A juvenile court that conducts a proceeding under this article shall appoint a court appointed special advocate, a guardian ad litem, or both for the child before the court begins a proceeding under this article.

- (b) An advocate is not required to be an attorney.
- (c) An attorney representing the child may be appointed as the child's advocate.
- (d) The court may not appoint any of the following to be a child's advocate:
 - (1) A party to the proceeding.
 - (2) An employee of a party to the proceeding.
 - (3) A representative of a party to the proceeding.
- (e) An advocate shall represent and protect the best interests of the child.

As added by P.L.2-1992, SEC.20.

IC 12-26-8-2

Sec. 2. A child's advocate is an officer of the juvenile court for the purpose of representing the child's interests.

As added by P.L.2-1992, SEC.20.

IC 12-26-8-3

Sec. 3. (a) A child's advocate may be represented by an attorney.

(b) If necessary to protect the child's interests, the juvenile court may appoint an attorney to represent an advocate of a child. The court may appoint only one (1) attorney under this subsection.

As added by P.L.2-1992, SEC.20.

IC 12-26-8-4

Sec. 4. (a) Within thirty (30) days after a child is first committed to a facility by a juvenile court, the child's advocate shall do all of the following:

- (1) Visit the facility.
- (2) Evaluate the services delivered to the child.
- (3) Evaluate whether the commitment continues to be appropriate for the child.
- (b) The child's advocate shall conduct a review similar to that required under subsection (a):
 - (1) sixty (60) days after the child is first committed;
 - (2) six (6) months after the child is first committed; and
 - (3) every six (6) months after the review required by subdivision (2).
- (c) The superintendent of the facility shall provide necessary assistance to carry out the reviews required by this section.

As added by P.L.2-1992, SEC.20.

IC 12-26-8-5

Sec. 5. The child's advocate shall submit a report of each review required by section 4 of this chapter to all of the following:

- (1) The committing juvenile court.
- (2) The superintendent of the facility.
- (3) A county office that has wardship of the child.
- (4) Each party to the commitment proceeding.

As added by P.L.2-1992, SEC.20. Amended by P.L.4-1993, SEC.204; P.L.5-1993, SEC.217.

IC 12-26-8-6

Sec. 6. (a) A child's advocate shall be given access to all reports relevant to the child.

(b) IC 31-39-2 applies to the release of reports that are confidential under IC 31-39-1.

As added by P.L.2-1992, SEC.20. Amended by P.L.1-1997, SEC.87.

IC 12-26-8-7

Sec. 7. Payment of any fees shall be made under IC 31-40.

As added by P.L.2-1992, SEC.20. Amended by P.L.1-1997, SEC.88.

IC 12-26-8-8

Sec. 8. If a child under the custody or supervision of a county office is committed to a state institution, the court may not release the county office from the county office's obligations to the child unless the court appoints a guardian for the child under IC 12-26-16.

As added by P.L.2-1992, SEC.20. Amended by P.L.4-1993, SEC.205; P.L.5-1993, SEC.218.

IC 12-26-8-9

Sec. 9. A juvenile court that commits a child under this article shall require the county office or the probation department for the court to report to the court on the progress made in implementing the commitment at least every six (6) months. If the committed child is a child in need of services, the county office shall perform case reviews of the child's commitment under IC 31-34-21.

As added by P.L.2-1992, SEC.20. Amended by P.L.4-1993, SEC.206; P.L.5-1993, SEC.219; P.L.1-1997, SEC.89.

IC 12-26-9

Chapter 9. Commitment to Facilities Owned by the United States Government

IC 12-26-9-1

Sec. 1. As used in this chapter, "federal department" refers to the United States Department of Veterans Affairs.

As added by P.L.2-1992, SEC.20.

IC 12-26-9-2

Sec. 2. As used in this chapter, "federal facility" refers to a facility owned by the United States.

As added by P.L.2-1992, SEC.20.

IC 12-26-9-3

Sec. 3. If it is determined in a proceeding under this article that an individual:

- (1) is mentally ill and either dangerous or gravely disabled;
 - (2) should be committed to a facility for custody, care, and treatment; and
 - (3) is a veteran who may be eligible for treatment in a federal facility;
- the court may communicate with the federal department concerning the availability of federal facilities and the individual's eligibility to be committed to a federal facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-9-4

Sec. 4. Upon receiving information concerning availability and eligibility from the federal department, the court may commit an individual to a federal facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-9-5

Sec. 5. Upon admission to a federal facility, an individual is subject to the rules and regulations of the federal facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-9-6

Sec. 6. The hospital officers of a federal facility have the same powers exercised by a superintendent under this article with respect to the detention and custody of an individual.

As added by P.L.2-1992, SEC.20.

IC 12-26-10

Chapter 10. Care Pending Admission to a Facility

IC 12-26-10-1

Sec. 1. If an individual is committed to a facility, the court shall consult with the superintendent or the attending physician concerning the method of caring for the individual pending admission to the facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-10-2

Sec. 2. The court may order temporary placement of the individual in the least restrictive suitable facility pending admission to a facility.

As added by P.L.2-1992, SEC.20.

IC 12-26-10-3

Sec. 3. An individual may not be confined in a county jail unless all the following apply:

- (1) The individual is found to be dangerous and violent.
- (2) There is no other suitable facility available pending admission to a facility.
- (3) The court so orders.

As added by P.L.2-1992, SEC.20.

IC 12-26-10-4

Sec. 4. If the comfort and the care of an individual are not otherwise provided:

- (1) from the individual's estate;
- (2) by the individual's relatives or friends; or
- (3) through financial assistance from the division of family and children or a county office;

the court may order the assistance furnished and paid for out of the general fund of the county.
As added by P.L.2-1992, SEC.20. Amended by P.L.4-1993, SEC.207; P.L.5-1993, SEC.220.

IC 12-26-11

Chapter 11. Transfer of an Individual

IC 12-26-11-1

Sec. 1. The superintendent of a facility to which an individual was committed under IC 12-26-6 or IC 12-26-7 or to which the individual's commitment was transferred under this chapter, may transfer the commitment of the individual to:

- (1) a state institution;
- (2) a community mental health center;
- (3) a community mental retardation and other developmental disabilities center;
- (4) a federal facility;
- (5) a psychiatric unit of a hospital licensed under IC 16-21;
- (6) a private psychiatric facility licensed under IC 12-25;
- (7) a community residential program for the developmentally disabled described in IC 12-11-1.1-1(e)(1) or IC 12-11-1.1-1(e)(2); or
- (8) an intermediate care facility for the mentally retarded (ICF/MR) that is licensed under IC 16-28 and is not owned by the state;

if the transfer is likely to be in the best interest of the individual or other patients.

As added by P.L.2-1992, SEC.20. Amended by P.L.2-1993, SEC.115; P.L.24-1997, SEC.59; P.L.272-1999, SEC.47.

IC 12-26-11-2

Sec. 2. The superintendent of a facility to which the commitment of an individual is to be transferred may decline to admit the individual if the superintendent determines that adequate space, treatment staff, or treatment facilities appropriate to the needs of the individual are not available.

As added by P.L.2-1992, SEC.20.

IC 12-26-11-3

Sec. 3. If an individual is transferred under section 1 of this chapter, the transferring facility shall provide a copy of the individual's current medical and treatment records to the facility to which the commitment of the individual is transferred.

As added by P.L.2-1992, SEC.20.

IC 12-26-11-3.5

Sec. 3.5. If an individual is transferred under section 1 of this chapter from a state institution administered by the division of mental health, the gatekeeper for the individual shall facilitate and plan, together with the individual and state institution, the individual's transition to the community or to another facility if the facility is not a state institution administered by the division of mental health.

As added by P.L.6-1995, SEC.26.

IC 12-26-11-4

Sec. 4. If the commitment of an individual is transferred to another facility under section 1 of this chapter, the transferring facility shall give written notice to each of the following:

- (1) The individual's legal guardian.
- (2) The individual's parents.
- (3) The individual's spouse.
- (4) The individual's attorney, if any.

As added by P.L.2-1992, SEC.20.

IC 12-26-11-5

Sec. 5. (a) As used in this section, "substantially more restrictive environment" means another facility or that part of a facility that is designated as the place providing maximum security for patients.

(b) If the transfer of the commitment of an individual is to a substantially more restrictive environment, the transferring facility shall provide the individual with an opportunity for an administrative hearing within ten (10) days after the transfer.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.59.

IC 12-26-11-6

Sec. 6. An individual whose commitment is transferred under section 1 of this chapter may, within thirty

(30) days after the transfer, petition the committing court for an order setting aside the transfer and ordering the individual and the individual's medical and treatment records returned to the facility to which the court originally committed the individual.

As added by P.L.2-1992, SEC.20.

Chapter 12. Notice of Discharge of an Individual

IC 12-26-12-1

Sec. 1. (a) Except as provided in subsection (c), a court that orders a commitment may order the superintendent to notify the petitioner in the commitment proceeding and other person designated by the court that the committed individual will be discharged.

(b) The notice required under subsection (a) shall be given to the petitioner and other person designated by the court at least twenty (20) days before the end of the commitment period.

(c) A court may not order the director of a community mental health center or a managed care provider to notify the person who filed a petition with respect to an individual committed to the community mental health center or the managed care provider.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.60.

IC 12-26-12-2

Sec. 2. (a) Within ten (10) days after receiving a notice under section 1 of this chapter, the petitioner may file a petition with the court that ordered the committed individual's commitment requesting a hearing to determine whether the individual should be discharged.

(b) The petitioner must notify the superintendent of a petition filed with the court under subsection (a).

As added by P.L.2-1992, SEC.20.

IC 12-26-12-3

Sec. 3. If the superintendent does not receive notice of a request for a hearing within ten (10) days after notice was given under section 2 of this chapter, the committed individual shall be discharged unless the superintendent determines that the individual is mentally ill and either dangerous or gravely disabled.

As added by P.L.2-1992, SEC.20.

IC 12-26-12-4

Sec. 4. If the superintendent is notified of a petition under section 2 of this chapter, the committed individual may not be discharged except as provided in this chapter.

As added by P.L.2-1992, SEC.20.

IC 12-26-12-5

Sec. 5. (a) If the court receives a petition under section 2 of this chapter, the court shall set a hearing date.

(b) The hearing date set under subsection (a) must be within twenty (20) days after the petition is filed.

(c) If a hearing is not held within twenty (20) days of the filing of the petition, the committed individual shall be discharged unless either of the following apply:

(1) The individual agrees to a continuance.

(2) The superintendent determines that the individual is mentally ill and either dangerous or gravely disabled.

As added by P.L.2-1992, SEC.20.

IC 12-26-12-6

Sec. 6. At the hearing:

(1) the petitioner is entitled to present evidence concerning the committed individual's mental or physical condition;

(2) the procedure is the same as provided in IC 12-26-6; and

(3) the committed individual's rights are the same as provided in IC 12-26-6.

As added by P.L.2-1992, SEC.20.

IC 12-26-12-7

Sec. 7. The court shall order the discharge of a committed individual and terminate the commitment if the court finds that the individual is not mentally ill and either dangerous or gravely disabled.

As added by P.L.2-1992, SEC.20.

IC 12-26-12-8

Sec. 8. If the court does not order the discharge of the committed individual under section 7 of this chapter, the court may appoint a guardian to provide for the individual's continued care.

As added by P.L.2-1992, SEC.20.

IC 12-26-13

Chapter 13. Leave from Confinement and Discharge

IC 12-26-13-1

Sec. 1. The superintendent of a facility may grant a committed individual a leave of absence from confinement in the facility for a period designated by the superintendent if the superintendent or an attending physician determines that the leave of absence is in the best interest of the individual.

As added by P.L.2-1992, SEC.20.

IC 12-26-13-2

Sec. 2. Upon the discharge of an individual committed under this article, the superintendent of the facility shall notify the committing court of the date of the discharge. The court shall make an entry on the record indicating the date of discharge.

As added by P.L.2-1992, SEC.20.

IC 12-26-14

Chapter 14. Outpatient Therapy

IC 12-26-14-1

Sec. 1. If a hearing has been held under IC 12-26-6 or IC 12-26-7 and the court finds that the individual is:

- (1) mentally ill and either dangerous or gravely disabled;
 - (2) likely to benefit from an outpatient therapy program that is designed to decrease the individual's dangerousness or disability;
 - (3) not likely to be either dangerous or gravely disabled if the individual complies with the therapy program; and
 - (4) recommended for an outpatient therapy program by the individual's examining physician;
- the court may order the individual to enter a therapy program as an outpatient.

As added by P.L.2-1992, SEC.20. Amended by P.L.62-1993, SEC.9.

IC 12-26-14-2

Sec. 2. Before the court may issue an order under section 1 of this chapter, a representative of an outpatient therapy program approved by the court must represent to the court that the individual may enter that program immediately.

As added by P.L.2-1992, SEC.20.

IC 12-26-14-3

Sec. 3. The court may require an individual ordered to enter an outpatient therapy program under section 1 of this chapter to do the following:

- (1) Follow the therapy program the individual enters.
- (2) Attend each medical and psychiatric appointment made for the individual.
- (3) Reside at a location determined by the court.
- (4) Comply with other conditions determined by the court.

As added by P.L.2-1992, SEC.20.

IC 12-26-14-4

Sec. 4. (a) If a staff member of a program involved in the treatment, supervision, or care of an individual ordered to enter an outpatient therapy program under section 1 of this chapter has reason to believe that the individual has failed to comply with the requirements of section 3 of this chapter, the staff member shall immediately notify the court of the failure to comply.

(b) Except as provided in subsection (c), the individual may be transferred from the outpatient therapy program to one (1) of the following:

- (1) The inpatient unit of the facility that has the original commitment.
- (2) A supervised group living program (as defined in IC 12-22-2-3(2)).
- (3) A sub-acute stabilization facility.

(c) The individual may not be transferred to a supervised group living program or a sub-acute stabilization facility unless in the opinion of the individual's attending physician:

- (1) it is not necessary for the individual to receive acute care inpatient treatment; and

(2) the individual is in need of either a supervised group living program or a sub-acute stabilization facility.
(d) The individual may not be imprisoned or confined in a jail or correctional facility unless the individual has been placed under arrest.

(e) A facility to which an individual is transferred under subsection (b) shall immediately notify the court of the transfer. A transfer to a facility under subsection (b) is subject to review under section 6 of this chapter upon petition by the individual who was transferred.

As added by P.L.2-1992, SEC.20. Amended by P.L.62-1993, SEC.10; P.L.6-1995, SEC.27.

IC 12-26-14-5

Sec. 5. (a) Upon receiving notification under section 4 of this chapter, the court shall reopen the original commitment proceeding and determine whether the:

(1) individual:

(A) has failed to comply with the requirements of section 3 of this chapter;

(B) is mentally ill and either dangerous or gravely disabled; and

(C) should be committed to a facility under this article; or

(2) individual should continue to be maintained on an outpatient commitment, subject to an additional court order that:

(A) requires a law enforcement officer to apprehend and transport the individual to a facility for treatment; and

(B) applies:

(i) after notification to the court by the facility or provider responsible for the individual's commitment; and

(ii) whenever the individual fails to attend a scheduled outpatient appointment or fails to comply with a condition of the outpatient commitment.

(b) If the court receives notice of a transfer under section 4(e) of this chapter, the court may conduct a review to determine the validity of the transfer.

As added by P.L.2-1992, SEC.20. Amended by P.L.62-1993, SEC.11; P.L.6-1995, SEC.28; P.L.121-1996, SEC.1.

IC 12-26-14-6

Sec. 6. If an individual is ordered to enter a therapy program under section 1 of this chapter, the individual is entitled to review of the order and release from the program at the same intervals and under the same conditions as an individual committed under:

(1) IC 12-26-6 if the therapy order is issued under that chapter; or

(2) IC 12-26-7 if the therapy order is issued under that chapter.

As added by P.L.2-1992, SEC.20.

IC 12-26-14-7

Sec. 7. If an individual:

(1) has been committed under IC 12-26-6 or IC 12-26-7;

(2) is likely to benefit from a therapy program designed to decrease the individual's dangerousness or grave disability;

(3) is not likely to be either dangerous or gravely disabled if the individual continues to follow the therapy program; and

(4) is recommended for an outpatient therapy program by the individual's attending or examining physician;

the superintendent of the facility in which the individual is committed or the court at the time of commitment may place the individual on outpatient status for the remainder of the individual's commitment period, subject to the conditions of outpatient therapy programs under section 8 of this chapter.

As added by P.L.2-1992, SEC.20. Amended by P.L.62-1993, SEC.12.

IC 12-26-14-8

Sec. 8. An individual placed on outpatient status under section 7 of this chapter may be required to do the following:

(1) Follow the therapy program designed by the facility in which the individual has been placed.

(2) Attend any medical or psychiatric appointments made for the individual with respect to the individual's psychiatric condition.

(3) Reside at a place designated by the superintendent.

As added by P.L.2-1992, SEC.20.

IC 12-26-14-9

Sec. 9. If the individual's attending or examining physician determines that the individual has failed to

comply with the requirements under section 8 of this chapter and is likely to be dangerous or gravely disabled, the individual:

(1) may, in accordance with IC 12-24-8, be returned to the facility to which the individual is committed under this article as an inpatient; or

(2) may be transferred to a short term sub-acute stabilization treatment program under this chapter.

As added by P.L.2-1992, SEC.20. Amended by P.L.62-1993, SEC.13.

IC 12-26-14-10

YAMD.1992

Sec. 10. (a) After an individual has been returned to the facility to which the individual is committed under this article, the director shall conduct a hearing under IC 4-21.5-3 to determine whether:

(1) the individual has failed to comply with the requirements described in section 8 of this chapter;

(2) the individual is in need of inpatient treatment; and

(3) the individual's outpatient status should be revoked.

(b) A hearing required by subsection (a) may be conducted by a hearing officer appointed by the director.

(c) An individual may appeal under IC 4-21.5-5 a determination of the hearing officer by filing a petition with the court that committed the

individual under IC 12-26-6 or IC 12-26-7.

As added by P.L.2-1992, SEC.20.

IC 12-26-15

Chapter 15. Review of Commitment

IC 12-26-15-1

Sec. 1. (a) At least annually, and more often if directed by the court, the superintendent of the facility or the attending physician including the superintendent or attending physician of an outpatient therapy program, shall file with the court a review of the individual's care and treatment. The review must contain a statement of the following:

(1) The mental condition of the individual.

(2) Whether the individual is dangerous or gravely disabled.

(3) Whether the individual:

(A) needs to remain in the facility; or

(B) may be cared for under a guardianship.

(b) If the court has entered an order under IC 12-26-12-1, the superintendent or the attending physician shall give notice of the review to the petitioner in the individual's commitment proceeding and other persons that were designated by the court under IC 12-26-12-1.

As added by P.L.2-1992, SEC.20. Amended by P.L.40-1994, SEC.61.

IC 12-26-15-2

Sec. 2. (a) Upon receipt of the report required by section 1 of this chapter, the court shall do one (1) of the following:

(1) Order the individual's continued custody, care, and treatment in the appropriate facility or therapy program.

(2) Terminate the commitment or release the individual from the therapy program.

(3) Conduct a hearing under IC 12-26-12.

(b) The court may, in order to make provision for the individual's continued care, appoint a guardian for the individual.

As added by P.L.2-1992, SEC.20.

IC 12-26-15-3

Sec. 3. (a) Upon receiving a copy of the court order, the individual or the individual's representative may request a hearing for review or dismissal of the commitment or order concerning the therapy program. The right to review of the regular commitment or therapy order is limited to one (1) review each year, unless the court determines that there is good cause for an additional review.

(b) When a hearing request is received, the court shall set a hearing date and provide at least five (5) days notice to all of the following:

(1) The individual.

(2) The individual's counsel.

(3) Other interested parties.

As added by P.L.2-1992, SEC.20.

IC 12-26-15-4

Sec. 4. (a) The rights of a committed individual are the same as those provided in IC 12-26-6.

(b) Hearing procedures for a hearing under this chapter are the same as those provided in IC 12-26-6.

As added by P.L.2-1992, SEC.20.

IC 12-26-15-5

Sec. 5. (a) Unless the court has entered an order under IC 12-26-12, the individual may be discharged before the end of the commitment period or court ordered therapy program period if either of the following apply:

(1) The superintendent or the attending physician determines that the individual is not mentally ill and either dangerous or gravely disabled.

(2) The superintendent determines, with the written consent of the attending physician, that the individual will enter a facility that provides more appropriate care and treatment immediately following the individual's discharge.

(b) If an individual is discharged or released from a therapy program under this section, the superintendent or the attending physician shall notify the court. The court shall enter an order terminating the commitment or releasing the individual from the therapy program.

As added by P.L.2-1992, SEC.20.

IC 12-26-16

Chapter 16. Guardianships

IC 12-26-16-1

Sec. 1. At the request of the individual who is the subject of a proceeding under this article or another interested party, the court may establish a guardianship for the individual or the individual's property instead of making or continuing a regular commitment to a facility under IC 12-26-7 or at any other time.

As added by P.L.2-1992, SEC.20.

IC 12-26-16-2

Sec. 2. A guardianship established under section 1 of this chapter shall be established under the applicable Indiana law governing guardianships.

As added by P.L.2-1992, SEC.20.

IC 12-27

**ARTICLE 27. RIGHTS OF INDIVIDUALS BEING
TREATED FOR MENTAL ILLNESS OR DEVELOPMENTAL DISABILITIES**

IC 12-27-1

Chapter 1. Application

IC 12-27-1-1

Sec. 1. This article applies to a patient receiving mental health services or developmental training in or from a service provider.

As added by P.L.2-1992, SEC.21.

IC 12-27-1-2

Sec. 2. This article does not apply to an individual receiving mental health services or developmental training under the department of correction.

As added by P.L.2-1992, SEC.21.

IC 12-27-1-3

Sec. 3. A private practitioner or other person not covered by this article may elect to be subject to this article by notifying the director of the appropriate division in writing of the election.

As added by P.L.2-1992, SEC.21.

IC 12-27-1-4

Sec. 4. Each division shall adopt rules under IC 4-22-2 to implement this article.

As added by P.L.2-1992, SEC.21.

IC 12-27-2**Chapter 2. Rights of Patients****IC 12-27-2-1**

Sec. 1. Subject to section 2 of this chapter, a patient is entitled to all of the following:

- (1) Mental health services or developmental training:
 - (A) in accordance with standards of professional practice;
 - (B) appropriate to the patient's needs; and
 - (C) designed to afford a reasonable opportunity to improve the patient's condition.
- (2) Humane care and protection from harm.
- (3) The right to practice the patient's religion.
- (4) Contact and consultation with legal counsel and private practitioners of the patient's choice at the patient's expense.

As added by P.L.2-1992, SEC.21.

IC 12-27-2-2

Sec. 2. (a) The rights set forth in section 1 of this chapter are subject to the limitation that there may be certain conditions for which there is no known effective treatment or developmental training.

(b) A service provider is not required to afford mental health services or developmental training where treatment would not be likely to produce a significant improvement.

As added by P.L.2-1992, SEC.21.

IC 12-27-2-3

Sec. 3. (a) A patient is entitled to exercise the patient's constitutional, statutory, and civil rights except for those rights that have been denied or limited by an adjudication or finding of mental incompetency in a guardianship or other civil proceeding.

(b) This section does not validate the otherwise voidable act of an individual who was:

- (1) mentally incompetent at the time of the act; and
- (2) not judicially declared to be mentally incompetent.

As added by P.L.2-1992, SEC.21.

IC 12-27-3**Chapter 3. Conditional Rights of Patients in Residential Settings****IC 12-27-3-1**

Sec. 1. As used in this chapter, "reasonable means of communication" includes the following rights:

- (1) To be visited at reasonable times.
- (2) To send and receive sealed mail.
- (3) To have access to a reasonable amount of letter writing materials and postage.
- (4) To place and receive telephone calls at the patient's own expense.

As added by P.L.2-1992, SEC.21.

IC 12-27-3-2

Sec. 2. The rights described in this chapter are in addition to the rights recognized in IC 12-27-2.

As added by P.L.2-1992, SEC.21.

IC 12-27-3-3

Sec. 3. Subject to section 4 of this chapter, a patient receiving services or training in a residential setting is conditionally entitled to do all of the following:

- (1) Wear the individual's own clothes.
- (2) Keep and use personal possessions.
- (3) Keep and spend a reasonable amount of the individual's own money.
- (4) Have access to individual storage space for private use.
- (5) Maintain reasonable means of communication with persons outside the facility.

As added by P.L.2-1992, SEC.21.

IC 12-27-3-4

Sec. 4. The conditional rights recognized in this chapter may be denied or limited as follows:

- (1) In the circumstances and according to the procedures established by rules of the appropriate division.
- (2) Because of inconsistency with the design of a treatment or habilitation program if the program design has been approved by the division.

(3) On an individual basis, only for good cause as set forth in the individual treatment record and approved by the person primarily responsible for the patient's care and treatment.

As added by P.L.2-1992, SEC.21.

IC 12-27-3-5

YAMD.1992

Sec. 5. The service provider shall give notice of denial or limitation of rights under section 4 of this chapter to the following:

- (1) The patient.
- (2) The guardian or appointed advocate of the patient.

As added by P.L.2-1992, SEC.21.

IC 12-27-4

Chapter 4. Seclusion and Restraint of Patients

IC 12-27-4-1

Sec. 1. A service provider may use seclusion or restraint of a patient only in the following cases:

- (1) When necessary to prevent danger of abuse or injury to the patient or others.
- (2) As a measure of therapeutic treatment.

As added by P.L.2-1992, SEC.21.

IC 12-27-4-2

Sec. 2. A service provider shall record all instances of restraint or seclusion and detailed reasons for the restraint or seclusion in the patient's habilitation or treatment record.

As added by P.L.2-1992, SEC.21.

IC 12-27-4-3

Sec. 3. A service provider shall do the following:

- (1) Frequently observe a patient who is restrained or secluded.
- (2) Enter written notification of the observation in the patient's treatment or habilitation record.

As added by P.L.2-1992, SEC.21.

IC 12-27-5

Chapter 5. Refusal of Treatment

IC 12-27-5-1

Sec. 1. An adult voluntary patient who is not adjudicated mentally incompetent may refuse to submit to treatment or a habilitation program.

As added by P.L.2-1992, SEC.21.

IC 12-27-5-2

Sec. 2. (a) An involuntary patient who wants to refuse to submit to treatment or a habilitation program may petition the committing court or hearing officer for consideration of the treatment or program.

(b) In the absence of a petition made under subsection (a), the service provider may proceed with the proposed treatment or habilitation program.

As added by P.L.2-1992, SEC.21.

IC 12-27-6

Chapter 6. Information Concerning Rights of Patients

IC 12-27-6-1

Sec. 1. The administrative head of a facility subject to this article shall ensure that each patient in the service provider's care has access to the information contained in this article respecting the patient's rights.

As added by P.L.2-1992, SEC.21.

IC 12-27-6-2

Sec. 2. A service provider shall inform all patients of the following:

- (1) The nature of the treatment or habilitation program proposed.
- (2) The known effects of receiving and of not receiving the treatment or habilitation.
- (3) Alternative treatments or habilitation programs, if any.

As added by P.L.2-1992, SEC.21.

IC 12-27-6-3

Sec. 3. (a) A service provider shall inform all adult voluntary patients who are not adjudicated mentally incompetent of the right to refuse to submit to treatment or a habilitation program.

(b) A service provider shall inform all involuntary patients, verbally and in writing, of the right to petition the committing court or hearing officer for consideration of the treatment or program.

As added by P.L.2-1992, SEC.21. Amended by P.L.121-1996, SEC.2.

IC 12-27-7**Chapter 7. Waiver of Rights****IC 12-27-7-1**

Sec. 1. A patient may waive any of the rights enumerated in this article if the waiver is given voluntarily and knowingly.

As added by P.L.2-1992, SEC.21.

IC 12-27-7-2

Sec. 2. A waiver made under section 1 of this chapter may be withdrawn at any time.

As added by P.L.2-1992, SEC.21.

IC 12-27-7-3

Sec. 3. Admission to a treatment or habilitation program may not be conditioned upon the giving of a waiver under section 1 of this chapter.

As added by P.L.2-1992, SEC.21.

IC 12-27-8**Chapter 8. Remedies****IC 12-27-8-1**

Sec. 1. A violation of rights recognized by this article may be remedied under this chapter.

As added by P.L.2-1992, SEC.21.

IC 12-27-8-2

Sec. 2. (a) An individual whose rights were violated or a person authorized by statute to act on the individual's behalf may bring an action.

(b) An action under this section shall be brought in a court that has jurisdiction.

(c) In an action under this section, money damages may be awarded only for willful or wanton violation of the rights recognized by this article.

As added by P.L.2-1992, SEC.21.

IC 12-27-8-3

Sec. 3. A violation of rights recognized by this article may be remedied by an appropriate administrative action, including the following:

(1) Disciplinary action against an employee.

(2) Withdrawal of certification, license, or funding of a service provider.

As added by P.L.2-1992, SEC.21.

IC 12-27-9**Chapter 9. Mental Health Ombudsman Program****IC 12-27-9-1**

(Repealed by P.L.100-1998, SEC.1.)

IC 12-27-9-2

Sec. 2. Except as provided under section 6 of this chapter, all information and records of the ombudsman under this chapter are confidential and may not become public records or be subject to a subpoena or discovery proceedings.

As added by P.L.40-1994, SEC.62.

IC 12-27-9-3

Sec. 3. Within the limits of appropriated funds, the division of mental health shall contract in writing with a nonprofit corporation for the operation of the mental health ombudsman program. The nonprofit corporation must:

- (1) be qualified to receive tax deductible contributions under Section 170 of the Internal Revenue Code;
- (2) have offices statewide; and
- (3) have experience in mental health advocacy.

As added by P.L.40-1994, SEC.62.

IC 12-27-9-4

Sec. 4. (a) The mental health ombudsman program operated under this chapter must do the following:

- (1) Have at least one (1) full-time person to operate the program.
 - (2) Recruit and train volunteers to help carry out the duties of the program under this chapter.
 - (3) Mediate or advocate on behalf of mental health patients.
 - (4) At the request of a mental health patient, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of a mental health patient who is not capable of requesting assistance have been adversely affected, gather information about, analyze, and review on behalf of the mental health patient, the actions of an agency, a facility, or a program.
 - (5) At reasonable times in the course of conducting a review, enter and view premises within the control of an agency, a facility, or a program.
- (b) The mental health ombudsman shall maintain records of all activities on behalf of consumers and report all findings to the division on a quarterly basis.

As added by P.L.40-1994, SEC.62.

IC 12-27-9-5

Sec. 5. (a) The ombudsman may receive a complaint from the division of mental health's toll free number (IC 12-21-5-1.5) or any source concerning an action by an agency, a facility, or a program. After completing a review, the ombudsman shall inform the complainant and the agency, facility, or program that the review has been completed.

(b) If, after:

- (1) reviewing a complaint;
- (2) considering the response of an agency, a facility, or a program; and
- (3) considering any other pertinent material;

the mental health ombudsman determines that the complaint has merit, the ombudsman may make recommendations to that agency, facility, or program.

(c) At the ombudsman's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsman about the action taken on the ombudsman's recommendation under subsection (b) or the reasons for not complying with the ombudsman's recommendation.

As added by P.L.40-1994, SEC.62.

IC 12-27-9-6

Sec. 6. (a) If the ombudsman believes that the agency, facility, or program has failed to comply with the ombudsman's recommendations, the ombudsman shall refer the matter to the division of mental health or the Indiana protection and advocacy services commission as appropriate.

(b) The ombudsman shall compile annual statistics on each agency, facility, or program on which it reviews a complaint or conducts an investigation and determines that the complaint has merit or the investigation reveals a problem. The statistics must specify the types of complaints or problems and each agency, facility, or program that has failed to comply with the ombudsman's recommendations. The statistics shall be reported to the director of the division of mental health.

As added by P.L.40-1994, SEC.62.

IC 12-28

ARTICLE 28. MISCELLANEOUS PROVISIONS CONCERNING MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

IC 12-28-1

Chapter 1. Indiana Protection and Advocacy Service Commission

IC 12-28-1-1

Sec. 1. (a) It is the policy of the state that every developmentally disabled individual, mentally ill individual, and individual seeking or receiving vocational rehabilitation services has the same right to legal and other professional and lay representational services to promote, protect, and advocate the individual's interests as any other individual.

(b) It is the intent of this chapter to secure to the state, the state's local units of government, and Indiana citizens maximum benefits under the Developmentally Disabled Assistance and Bill of Rights Act (P.L.94-103), and to this end this chapter should be liberally construed.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-2

Sec. 2. As used in this chapter, "advocacy" means speaking for, pleading for, supporting, advising, espousing the rights of, or interceding on behalf of individuals with developmental disabilities, mentally ill individuals, or individuals seeking or receiving vocational rehabilitation services before public or private agencies, organizations, institutions, or individuals serving developmentally disabled individuals or mentally ill individuals or providing vocational rehabilitation services.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-3

Sec. 3. As used in this chapter, "commission" refers to the Indiana protection and advocacy services commission established by this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-4

Sec. 4. As used in this chapter, "services" refers to Indiana protection and advocacy services.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-5

YAMD.1992

Sec. 5. As used in this chapter, "vocational rehabilitation services" refers to services available under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

As added by P.L.2-1992, SEC.22.

IC 12-28-1-6

Sec. 6. (a) The Indiana protection and advocacy services commission is established. The commission is composed of thirteen (13) members who represent or who are knowledgeable about the needs of individuals served by the commission, including mental retardation, cerebral palsy, epilepsy, autism, and mental illness to be appointed as follows:

(1) Four (4) members to be appointed by the governor.

(2) Nine (9) members to be appointed by a majority vote of commission members.

(b) An official or employee of a branch of state government that delivers services to the individuals who are developmentally disabled, mentally ill, or seeking or receiving vocational rehabilitation services is not eligible for membership on the commission.

(c) One (1) member of the senate appointed by the president pro tempore of the senate and one (1) member of the house of representatives appointed by the speaker of the house of representatives serve in an advisory nonvoting capacity to the commission.

As added by P.L.2-1992, SEC.22. Amended by P.L.140-1993, SEC.3.

IC 12-28-1-7

Term of office; consecutive terms

Sec. 7. (a) The term of office of a member of the commission is three (3) years.

(b) A member may not serve more than five (5) consecutive terms.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1998, SEC.1; P.L.46-2003, SEC.1.

IC 12-28-1-8

Sec. 8. A vacancy on the commission must be filled by appointment not later than sixty (60) days after the vacancy occurs. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of the term.

As added by P.L.2-1992, SEC.22. Amended by P.L.140-1993, SEC.4.

IC 12-28-1-9

Sec. 9. The commission members are entitled to per diem and travel expenses for attending the meetings of the commission as provided for state employees under IC 4-10-11-2.1.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-10

Sec. 10. The commission shall establish Indiana protection and advocacy services and appoint an individual to be executive director of the services. The executive director serves at the pleasure of the commission and shall devote the director's time exclusively to the performance of the duties of the office.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-11

IC 12-28-1-11 Sec. 11. The primary purpose of the commission is to assure adequate legal and advocacy services for the:

- (1) promotion;
- (2) protection; and
- (3) advocacy;

of the rights and interests of developmentally disabled individuals, mentally ill individuals, and individuals who are seeking or receiving vocational rehabilitation services throughout Indiana.

As added by P.L.2-1992, SEC.22.

IC 12-28-1-12**Powers, duties, and functions of commission**

Sec. 12. Notwithstanding IC 4-6-2, the commission has the following powers, duties, and functions:

- (1) Establish and maintain all necessary offices.

- (2) Subject to IC 4-15-2:

(A) appoint;

(B) fix the compensation for; and

(C) prescribe the duties of;

the attorneys, other employees, and agents the commission considers necessary.

- (3) Provide legal and other advocacy services throughout Indiana to individuals or organizations on matters related to the protection of the legal and human rights of developmentally disabled individuals, mentally ill individuals, and individuals who are seeking or receiving vocational rehabilitation services.

- (4) Enter into contractual relationships and sue and be sued in the name of the services.

- (5) Apply for, solicit, and accept contributions or grants of money, property, or services made by gift, devise, bequest, grant, or other means from any source that the commission considers best to assist the services in performing its purpose.

- (6) Provide information and referral services.

- (7) Adopt rules under IC 4-22-2 to do the following:

(A) Establish and operate local protection and advocacy service units.

(B) Operate the service.

(C) Perform the commission's duties.

- (8) Ensure full participation in the electoral process in individuals with disabilities, including registering to vote, casting a vote, and accessing polling places, in accordance with 42 U.S.C. 15461 through 15462.

As added by P.L.2-1992, SEC.22. Amended by P.L.209-2003, SEC.201.

IC 12-28-1-13

Sec. 13. A mentally ill individual is eligible for services under this chapter if the individual:

- (1) has a significant mental illness or emotional impairment, as determined by a mental health professional qualified under Indiana statutes and rules; and

- (2) is:

(A) an inpatient or a resident in a facility rendering care or treatment even if the location of the inpatient or resident is unknown;

(B) in the process of being admitted to a facility rendering care or treatment, including an individual being transported to the facility; or

(C) involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a crime.

As added by P.L.2-1992, SEC.22.

IC 12-28-2**Chapter 2. Interstate Compact on Mental Health****IC 12-28-2-1**

Sec. 1. The Interstate Compact on Mental Health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article 1.

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article 2.

As used in this compact, the following terms have the following meanings:

- (a) "Sending state" means a party state from which a patient is transported pursuant to this compact or from which it is contemplated that a patient may be so sent.
- (b) "Receiving state" means a party state to which a patient is transported pursuant to this compact or to which it is contemplated that a patient may be so sent.
- (c) "Institution" means any hospital or other facility maintained by a party state or political subdivision of a party state for the care and treatment of mental illness or mental deficiency.
- (d) "Patient" means any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to this compact.
- (e) "After-care" means care, treatment, and services provided a patient, as defined in this compact, on convalescent status or conditional release.
- (f) "Mental illness" means mental disease to the extent that a person so afflicted requires care and treatment for that person's own welfare, the welfare of others, or the welfare of the community.
- (g) "Mental deficiency" means mental deficiency as defined by appropriate clinical authorities to the extent that a person so afflicted is incapable of managing the person's self and the person's affairs. However, the term does not include mental illness as defined in this compact.
- (h) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.
- (i) "Guardian" includes any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with the power to act for or exercise responsibility for the person or property of a patient.

Article 3.

- (a) Whenever a person physically present in any party state is in need of institutionalization by reason of mental illness or mental deficiency, the person shall be eligible for care and treatment in an institution in that state irrespective of the person's residence, settlement, or citizenship qualifications.
- (b) Notwithstanding the provisions of paragraph (a) of this article, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of the patient would be facilitated or improved by this transfer. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions of the care and treatment of the patient. The factors referred to in this paragraph shall include:
 - (1) the patient's full record with due regard for the location of the patient's family;
 - (2) the character of the illness and probable duration thereof; and
 - (3) any other factors considered to be appropriate.
- (c) No state shall be obliged to receive any patient pursuant to paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient, furnished all available medical and other pertinent records concerning the patient, given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish, and unless the receiving state agrees to accept the patient.
- (d) If the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and any further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article 4.

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it is determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in the receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served, and if the public safety would not be jeopardized, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article 5.

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, the patient shall be detained in the state where found pending disposition in accordance with law.

Article 6.

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article 7.

(a) No person shall be deemed a patient of more than one (1) institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two (2) or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) Nothing in this compact may be construed to alter or affect any internal relationships among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions as to the payment of costs or responsibilities for the costs.

(d) Nothing in this compact may be construed to prevent any party state or subdivision of a party state from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision may be responsible pursuant to this compact.

(e) Nothing in this compact may be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care, or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which those agreements may be made.

Article 8.

Nothing in this compact may be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on the guardian's own behalf or in respect of any patient for whom a guardian may serve, except that where the transfer of any patient to another jurisdiction makes advisable

the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances. However, in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by the court or continue the guardian's power and responsibility, whichever the court determines is advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state instead of making a supplemental or substitute appointment.

Article 9.

- (a) No provision of this compact except Article 5 shall apply to any person institutionalized:
- (1) while under sentence in a penal or correctional institution;
 - (2) while subject to trial on a criminal charge; or
 - (3) whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, the person would be subject to incarceration in a penal or correctional institution.
- (b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail, or lock-up, but the patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article 10.

- (a) Each party state shall appoint a compact administrator who, on behalf of the state, shall act as general coordinator of activities under the compact in that state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by that state either in the capacity of sending or receiving state. The compact administrator or the administrator's duly designated representative shall be the official with whom other party states shall deal in any manner relating to the compact or any patient processed thereunder.
- (b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article 11.

- (a) The duly constituted administrative authorities of any two (2) or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency.
- (b) No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article 12.

This compact shall enter into full force and effect as to any state when enacted by the state into law and the state shall thereafter be a party to the compact with any and all states legally joining in the compact.

Article 13.

- (a) A state party to this compact may withdraw from the compact by enacting a statute repealing the compact. Such withdrawal shall take effect one (1) year after notice of the withdrawal has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to that state or sent out of that state pursuant to this compact.
- (b) Withdrawal from any agreement permitted by Article 7(b) as to costs or from any supplementary agreement made pursuant to Article 11 shall be in accordance with the terms of that agreement.

Article 14.

- (a) This compact shall be liberally construed so as to effectuate the purposes thereof.
- (b) The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.
- (c) If this compact is held contrary to the constitution of any state party to the compact, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

As added by P.L.2-1992, SEC.22.

IC 12-28-2-2

Sec. 2. (a) Pursuant to the compact described in section 1 of this chapter, the director or a person authorized to act on behalf of the director shall perform the duties of compact administrator.

(b) The compact administrator may, acting jointly with like officers of other party states, adopt rules to carry out more effectively the terms of the compact.

(c) The compact administrator shall cooperate with all departments, agencies, and officers of the state and subdivisions of the state in facilitating the proper administration of the compact or of any supplementary agreement entered into by Indiana under the compact.

As added by P.L.2-1992, SEC.22.

IC 12-28-2-3

Sec. 3. The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to articles 7 and 11 of the compact. If a supplementary agreement requires or contemplates:

(1) the use of an institution or a facility of Indiana; or

(2) the provision of any service by Indiana;

the agreement does not have force or effect until approved by the head of the department or agency under whose jurisdiction the particular institution or facility is operated or whose department or agency will be charged with provision of the service.

As added by P.L.2-1992, SEC.22.

IC 12-28-2-4

Sec. 4. The compact administrator may, subject to the approval of the chief state fiscal officer, make or arrange for any payments necessary to discharge any financial obligations imposed upon Indiana by the compact or by a supplementary agreement.

As added by P.L.2-1992, SEC.22.

IC 12-28-3

Chapter 3. Uniform Act for the Extradition of Persons of Unsound Mind

IC 12-28-3-1

Sec. 1. As used in this chapter, "flight" and "fled" mean:

(1) any voluntary or involuntary departure from the jurisdiction of the court where the proceedings mentioned in this chapter may have been instituted and are still pending, with the effect of avoiding, impeding, or delaying the action of the court in which the proceedings may have been instituted or may be pending; or

(2) any departure from the state where the individual demanded then was under the detention by law as an individual of unsound mind and subject to detention.

As added by P.L.2-1992, SEC.22.

IC 12-28-3-2

(Repealed by P.L.1-1993, SEC.154.)

IC 12-28-3-3

Sec. 3. As used in this chapter and as applied to a request to return any individual within the purview of this chapter to or from the District of Columbia, "executive authority", "governor", and "chief magistrate" respectively, includes a justice of the Supreme Court of the District of Columbia and other authority.

As added by P.L.2-1992, SEC.22.

IC 12-28-3-4

Sec. 4. An individual alleged to be of unsound mind found in Indiana, who has fled from another state in which at the time of the individual's flight the individual:

(1) was under detention by law in a hospital, asylum, or other institution for the insane as an individual of unsound mind;

(2) had been determined by legal proceedings to be of unsound mind, the finding being unreversed and in full force and effect, and the control of the individual having been acquired by a court of competent jurisdiction of the state from which the individual fled; or

(3) was subject to detention in the other state, being then the individual's legal domicile (personal service of process having been made) based on legal proceedings there pending to have the individual declared of unsound mind;

shall, on demand of the executive authority of the state from which the individual fled, be delivered up to be removed to that state.

As added by P.L.2-1992, SEC.22.

IC 12-28-3-5

Sec. 5. (a) Whenever the executive authority of any state demands of the executive authority of Indiana any fugitive described in section 4 of this chapter and produces a copy of commitment, decree, or other judicial process and proceedings, certified as authentic by the governor

or chief magistrate of that state, with an affidavit made before a proper officer showing the individual to be a fugitive, the executive authority of Indiana shall cause the individual to be apprehended and secured (if found in Indiana) and to cause immediate notice of the apprehension to be given to the executive authority making the demand (or to the agent of that authority appointed to receive the fugitive) and to cause the fugitive to be delivered to the agent when the fugitive appears.

(b) If no agent appears within thirty (30) days from the time of the apprehension, the fugitive may be discharged.

(c) All costs and expenses incurred in the apprehending, securing, maintaining, and transmitting the fugitive to the state making the demand shall be paid by that state.

(d) Any agent so appointed who receives the fugitive into the agent's custody is empowered to transmit the fugitive to the state from which the fugitive has fled.

(e) The executive authority of Indiana is vested with the power, on the application of any person interested, to demand the return to Indiana of any fugitive described within the scope of this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-3-6

Sec. 6. Any proceedings under this chapter must begin within one (1) year after the flight referred to in this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-4**Chapter 4. Residential Facilities for Developmentally Disabled Individuals and Mentally Ill Individuals****IC 12-28-4-1**

Sec. 1. This chapter applies to residential facilities for both developmentally disabled individuals and mentally ill individuals.

As added by P.L.2-1992, SEC.22.

IC 12-28-4-2

Sec. 2. As used in this chapter, "planning authority" means the agency of county, city, or town government that performs the planning function under IC 36-7 for the land on which a residential facility may be placed.

As added by P.L.2-1992, SEC.22.

IC 12-28-4-3

Sec. 3. Residential facilities for the developmentally disabled must have sufficient qualified training and habilitation support staff so that the residential facility, regardless of organization or design, has appropriately qualified and adequately trained staff (not necessarily qualified mental retardation professionals (as defined in 42 CFR 442.401)) to conduct the activities of daily living, self-help, and social skills that are minimally required based on each recipient's needs and, if appropriate, for federal financial

participation under the Medicaid program.

As added by P.L.2-1992, SEC.22.

IC 12-28-4-4

Sec. 4. For residential facilities for the developmentally disabled that are certified for financial participation under the Medicaid program, the division of disability, aging, and rehabilitative services shall recommend staffing limitations consistent with the program needs of the residents as a part of the office of Medicaid policy and planning's rate setting procedures.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.208; P.L.5-1993, SEC.221.

IC 12-28-4-5

Sec. 5. For residential facilities for the developmentally disabled that are not certified for financial participation under the Medicaid program, the division of disability, aging, and rehabilitative services shall approve appropriate staffing limitations consistent with the program needs of the residents as a part of the division's rate setting procedures.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.209; P.L.5-1993, SEC.222.

IC 12-28-4-6

Sec. 6. The office of Medicaid policy and planning and the division of disability, aging, and rehabilitative services shall enter into a memorandum of agreement that defines the staffing limitations to be used by the office of Medicaid policy and planning in establishing reimbursement rates. The staffing limitations under section 5 of this chapter may not exceed the staffing limitations defined by the memorandum of agreement between the office of Medicaid policy and planning and the division of disability, aging, and rehabilitative services under section 4 of this chapter.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.210; P.L.5-1993, SEC.223.

IC 12-28-4-7

Sec. 7. (a) A zoning ordinance (as defined in IC 36-7-1-22) may not exclude a residential facility for the mentally ill from a residential area solely because the residential facility is a business or because the individuals residing in the residential facility are not related. The residential facility may be required to meet all other zoning requirements, ordinances, and laws.

(b) A zoning ordinance may exclude a residential facility for the mentally ill from a residential area if the residential facility will be located within three thousand (3,000) feet of another residential facility for the mentally ill, as measured between lot lines.

As added by P.L.2-1992, SEC.22.

IC 12-28-4-8

Sec. 8. (a) A residential facility for the developmentally disabled:

(1) for not more than eight (8) developmentally disabled individuals; and

(2) established under a program authorized by IC 12-11-1.1-1(e)(1) or IC 12-11-1.1-1(e)(2);

is a permitted residential use that may not be disallowed by any zoning ordinance (as defined in IC 36-7-1-22) in a zoning district or classification that permits residential use.

(b) A zoning ordinance may only require a residential facility described in subsection (a) to meet the same:

(1) zoning requirements;

(2) developmental standards; and

(3) building codes;

as other residential structures or improvements in the same residential zoning district or classification.

As added by P.L.2-1992, SEC.22. Amended by P.L.272-1999, SEC.48.

IC 12-28-4-9

Sec. 9. (a) This section applies to each restriction, reservation, condition, exception, or covenant that is created before April 1, 1988, in any subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property.

(b) A restriction, a reservation, a condition, an exception, or a covenant in a subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property that would permit the residential use of property but prohibit the use of that property as a residential facility for developmentally disabled individuals or mentally ill individuals:

(1) on the ground that the residential facility is a business;

(2) on the ground that the individuals residing in the residential facility are not related; or

(3) for any other reason;

is, to the extent of the prohibition, void as against the public policy of the state.

As added by P.L.2-1992, SEC.22.

IC 12-28-4-10

Sec. 10. (a) This section applies to each restriction, reservation, condition, exception, or covenant that is created on or after April 1, 1988, in any subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property.

(b) A restriction, a reservation, a condition, an exception, or a covenant in a subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property that would permit the residential use of property but prohibit the use of that property as a residential facility for developmentally disabled individuals or mentally ill individuals:

(1) on the ground that the residential facility is a business;

(2) on the ground that the individuals residing in the residential facility are not related; or

(3) for any other reason;

is, to the extent of the prohibition, void as against the public policy of the state.

As added by P.L.2-1992, SEC.22.

IC 12-28-4-11

(Repealed by P.L.6-1995, SEC.39.)

IC 12-28-4-12

Sec. 12. (a) Subject to the availability of money and consistent with needs assessment, the division of disability, aging, and rehabilitative services shall give priority to the establishment of residential facilities, other than the facilities described in section 3 of this chapter, in counties in which the ratio of the number of residential facility beds to county population is in the lowest twenty-five percent (25%) when compared to all other Indiana counties. The division of disability, aging, and rehabilitative services may operate residential facilities established under this section.

(b) Before the division of disability, aging, and rehabilitative services takes any steps to establish a residential facility under this section, the division shall place at least two (2) legal advertisements in a newspaper having a general circulation in the county. These advertisements must be aimed at recruiting private parties to serve as operators of residential facilities in the county. The advertisements must be published at intervals at least one (1) month apart.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.212; P.L.5-1993, SEC.225.

IC 12-28-4-13

Sec. 13. (a) The division of disability, aging, and rehabilitative services may operate a program known as the development and lease effort. Under the program, the division of disability, aging, and rehabilitative services may develop contracts under which the state agrees to lease buildings from private parties for use as residential facilities for mentally ill individuals or autistic or other developmentally disabled individuals. Notwithstanding any other law, each contract may include provisions that ensure the following:

(1) That the state will lease a building for not more than ten (10) years for use as a residential facility for autistic individuals.

(2) That the state will retain the right to extend the term of the lease for not more than ten (10) years at the conclusion of the first ten (10) years.

(3) That the state will retain the right to sublease the building to a person who agrees to operate the building as a residential facility for autistic individuals under this chapter.

(b) Leases entered into under this section are subject to the approval of the Indiana department of administration, the attorney general, the governor, and the budget agency, as provided by law.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.213; P.L.5-1993, SEC.226.

IC 12-28-4-14

Sec. 14. The community residential facilities council may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-5

Chapter 5. Community Residential Facilities Council

IC 12-28-5-1

Sec. 1. As used in this chapter, "council" refers to the community residential facilities council established

by this chapter.

As added by P.L.2-1992, SEC.22.

IC 12-28-5-2

Sec. 2. (a) The community residential facilities council is established. The council consists of the following members appointed by the governor:

- (1) One (1) professional possessing specialized training in the field of human development.
 - (2) One (1) member of the professional staff of the division of disability, aging, and rehabilitative services.
 - (3) One (1) member of the professional staff of the office of Medicaid policy and planning.
 - (4) One (1) member of the professional staff of the state department of health.
 - (5) One (1) individual possessing a special interest in developmentally disabled individuals.
 - (6) One (1) individual possessing a special interest in mentally ill individuals.
 - (7) One (1) individual who is the chief executive officer of a facility providing both day services and residential services for developmentally disabled individuals.
 - (8) One (1) individual who is the chief executive officer of a facility providing residential services only for developmentally disabled individuals.
 - (9) One (1) individual who is a member of the professional staff of the Indiana protection and advocacy services commission. The individual appointed under this subdivision is an ex officio member of the council.
 - (10) One (1) individual who is the chief executive officer of an entity providing only supported living services.
 - (11) One (1) individual who is receiving services through the bureau of developmental disabilities services.
 - (12) Two (2) members of the public. One (1) member appointed under this subdivision may be a member of a representative organization of state employees.
- (b) Except for the members designated by subsection (a)(7), (a)(8), and (a)(10), a member of the council may not have an indirect or a direct financial interest in a residential facility for the developmentally disabled.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.5; P.L.4-1993, SEC.214; P.L.5-1993, SEC.227; P.L.111-1997, SEC.5;

P.L.272-1999, SEC.49; P.L.263-2001, SEC.1.

IC 12-28-5-3

Sec. 3. The term of each member of the council is four (4) years. Except for the members listed in section 2(a)(7), 2(a)(8), and 2(a)(10) of this chapter, members of the council may be reappointed.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.6; P.L.263-2001, SEC.2.

IC 12-28-5-4

Sec. 4. A vacancy occurring before the expiration of a term shall be filled by the governor with the same type of individual that vacated the office.

As added by P.L.2-1992, SEC.22.

IC 12-28-5-5

Sec. 5. A member may be removed only for cause.

As added by P.L.2-1992, SEC.22.

IC 12-28-5-6

Sec. 6. The governor shall appoint a member of the council to serve as presiding officer of the council.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.7.

IC 12-28-5-7

Sec. 7. The council:

- (1) shall meet at least quarterly; and
- (2) may meet more often than quarterly if necessary, but not more often than monthly.

Only the presiding officer may call additional meetings.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.8; P.L.263-2001, SEC.3.

IC 12-28-5-8

Sec. 8. A majority of the members must be present to have a quorum.

As added by P.L.2-1992, SEC.22.

IC 12-28-5-9

Sec. 9. Each member of the council who is not a state employee is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b) for each day spent on the official business of the council and to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's

duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-1992, SEC.22.

IC 12-28-5-10

Sec. 10. In conjunction with the division of disability, aging, and rehabilitative services, the council shall do the following:

- (1) Determine the current and projected needs of each geographic area of Indiana for residential services for developmentally disabled individuals.
- (2) Determine how the provision of developmental or vocational services for residents in these geographic areas affects the availability of developmental or vocational services to developmentally disabled individuals living in their own homes.
- (3) Develop standards for licensure of supervised group living facilities regarding the following:
 - (A) A sanitary and safe environment for residents and employees.
 - (B) Classification of supervised group living facilities.
 - (C) Any other matters that will ensure that the residents will receive a residential environment.
- (4) Develop standards for the approval of entities providing supported living services.
- (5) Recommend social and habilitation programs to the Indiana health facilities council for developmentally disabled individuals who reside in health facilities licensed under IC 16-28.
- (6) Develop and update semiannually a report that identifies the numbers of developmentally disabled individuals who live in health facilities licensed under IC 16-28. The Indiana health facilities council shall assist in developing and updating this report.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.9; P.L.2-1993, SEC.116; P.L.4-1993, SEC.215; P.L.5-1993, SEC.228; P.L.6-1995, SEC.29; P.L.255-1996, SEC.8; P.L.263-2001, SEC.4.

IC 12-28-5-11

Sec. 11. (a) A supervised group living facility must have a license or provisional license issued under this chapter to operate.

(b) An entity that provides supported living services must be approved by the council under this chapter to operate.

As added by P.L.2-1992, SEC.22. Amended by P.L.6-1995, SEC.30; P.L.263-2001, SEC.5.

IC 12-28-5-12

Sec. 12. (a) The council may license only those supervised group living facilities that:

- (1) meet the standards established under section 10 of this chapter; and
 - (2) are necessary to provide adequate services to developmentally disabled individuals in that geographic area.
- (b) A supervised group living facility described in subsection (c) may locate in only one (1) of the following counties:
- (1) A county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand two hundred (27,200).
 - (2) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).
 - (3) A county having a population of more than fifty thousand (50,000) but less than fifty-five thousand (55,000).
- (c) Notwithstanding 431 IAC 1.1-3-7(c) and 431 IAC 1.1-3-7(d), the council shall license one (1) supervised group living facility that is located less than one thousand (1,000) feet from another supervised group living facility or a sheltered workshop under the following conditions:
- (1) Both of the supervised group living facilities meet all standards for licensure as provided in section 10(3) of this chapter.
 - (2) Both of the supervised group living facilities are built on land that is owned by one (1) private entity.
 - (3) The community formed by the supervised group living facilities provides job opportunities for residents of the supervised group living facilities.
- (d) The council may approve an entity to provide supported living services only if the entity meets the standards established under section 10 of this chapter.

As added by P.L.2-1992, SEC.22. Amended by P.L.6-1995, SEC.31; P.L.255-1996, SEC.9; P.L.6-1998, SEC.1; P.L.263-2001, SEC.6; P.L.170-2002, SEC.83.

IC 12-28-5-13

Sec. 13. The council may revoke:

(1) the license of a supervised group living facility; or
(2) the approval of an entity that provides supported living services;
that no longer meets the standards established under section 10 of this chapter after following the procedures prescribed by IC 4-21.5-3. If a hearing is provided for or authorized to be held by the council, the council may designate a person as its agent or representative to conduct a hearing. The agent or representative shall conduct the hearing under IC 4-21.5-3.

As added by P.L.2-1992, SEC.22. Amended by P.L.6-1995, SEC.32; P.L.263-2001, SEC.7.

IC 12-28-5-14

Sec. 14. (a) The council may issue a provisional license to a facility that does not qualify for a license under section 12 of this chapter but that provides satisfactory evidence that the facility will qualify within a period prescribed by the council. The period may not exceed six (6) months.

(b) The council may issue provisional approval to an entity providing supported living services that does not qualify for approval under section 12 of this chapter but that provides satisfactory evidence that the entity will qualify within a period prescribed by the council. The period may not exceed six (6) months.

As added by P.L.2-1992, SEC.22. Amended by P.L.263-2001, SEC.8.

IC 12-28-5-15

Sec. 15. The division of disability, aging, and rehabilitative services shall provide the staff for the council to accomplish the council's functions. The council may require any other agency of state government to assist the council in performing a review of a supervised group living facility to determine if the supervised group living facility should be licensed.

As added by P.L.2-1992, SEC.22. Amended by P.L.23-1992, SEC.10; P.L.4-1993, SEC.216; P.L.5-1993, SEC.229; P.L.6-1995, SEC.33; P.L.255-1996, SEC.10.

IC 12-28-5-16

Sec. 16. The division of disability, aging, and rehabilitative services is the primary state agency responsible for planning, developing, coordinating, and implementing the plan and program of supervised group living facilities and services, including developmental and vocational services, needed for developmentally disabled individuals residing in those facilities. Other state agencies authorized by law or rule to carry out activities and control money that have a direct bearing upon the provision of supervised group living services shall enter into memoranda of understanding or contracts with the division of disability, aging, and rehabilitative services to ensure a coordinated utilization of resources and responsibilities.

As added by P.L.2-1992, SEC.22. Amended by P.L.4-1993, SEC.217; P.L.5-1993, SEC.230; P.L.6-1995, SEC.34.

IC 12-28-5-17

Sec. 17. The inspection of a facility to determine its compliance with state licensure standards shall be conducted, to the extent feasible, at the same time as the inspection to determine its compliance with federal standards.

As added by P.L.2-1992, SEC.22.

IC 12-28-5-18

(Repealed by P.L.111-1997, SEC.9.)

IC 12-28-5-19

Sec. 19. The council may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.23-1992, SEC.12.

IC 12-29-1

Chapter 1. Community Centers; General Provisions

IC 12-29-1-1a

Note: This version of section effective until 3-1-2001. See also following version of this section, effective 3-1-2001.

Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to the following:

- (1) A community mental health center that is located or will be located in the county.
- (2) A community mental retardation and other developmental disabilities center that is located or will be located in the county.
- (b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a center.

(2) Operating a center.

(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that could be collected from an annual tax levy of not more than ten cents (\$0.10) on each one hundred dollars (\$100) of taxable property within the county.

As added by P.L.2-1992, SEC.23.

Note: See also following version of this section, effective 3-1-2001.

IC 12-29-1-1b

Note: This version of section effective 3-1-2001. See also preceding version of this section, effective until 3-1-2001.

Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to the following:

(1) A community mental health center that is located or will be located in the county.

(2) A community mental retardation and other developmental disabilities center that is located or will be located in the county.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a center.

(2) Operating a center.

(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

As added by P.L.2-1992, SEC.23. Amended by P.L.6-1997, SEC.149.

Note: See also preceding version of this section, effective until 3-1-2001.

IC 12-29-1-2a

Note: This version of section effective until 3-1-2001. See also following version of this section, effective 3-1-2001.

Sec. 2. (a) If a community mental health center or a community mental retardation and other developmental disabilities center is organized to provide services to at least two (2) counties, the county executive of each county may authorize the furnishing of financial assistance for the purposes described in section 1(b) of this chapter.

(b) Upon the request of the county executive of the county, the county fiscal body of each county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriation of each county may not exceed the amount that could be collected from an annual tax levy of ten cents (\$0.10) on each one hundred dollars (\$100) of taxable property within the county.

As added by P.L.2-1992, SEC.23.

Note: See also following version of this section, effective 3-1-2001.

IC 12-29-1-2b

Note: This version of section effective 3-1-2001. See also preceding version of this section, effective until 3-1-2001.

Sec. 2. (a) If a community mental health center or a community mental retardation and other developmental disabilities center is organized to provide services to at least two (2) counties, the county executive of each county may authorize the furnishing of financial assistance for the purposes described in section 1(b) of this chapter.

(b) Upon the request of the county executive of the county, the county fiscal body of each county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriation of each county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

As added by P.L.2-1992, SEC.23. Amended by P.L.6-1997, SEC.150.

Note: See also preceding version of this section, effective until 3-1-2001.

IC 12-29-1-3a

Note: This version of section effective until 3-1-2001. See also following version of this section, effective 3-

1-2001.

Sec. 3. (a) The county executive of each county whose residents may receive services from a community mental health center or a community mental retardation and other developmental disabilities center may authorize the furnishing of a share of financial assistance for the purposes described in section 1(b) of this chapter if the following conditions are met:

- (1) The facilities for the center are located in a state adjacent to Indiana.
- (2) The center is organized to provide services to Indiana residents.

(b) Upon the request of the county executive of a county, the county fiscal body of the county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriations of the county may not exceed the amount that could be collected from an annual tax levy of ten cents (\$0.10) on each one hundred dollars (\$100) of taxable property within the county.

As added by P.L.2-1992, SEC.23.

Note: See also following version of this section, effective 3-1-2001.

IC 12-29-1-3b

Note: This version of section effective 3-1-2001. See also preceding version of this section, effective until 3-1-2001.

Sec. 3. (a) The county executive of each county whose residents may receive services from a community mental health center or a community mental retardation and other developmental disabilities center may authorize the furnishing of a share of financial assistance for the purposes described in section 1(b) of this chapter if the following conditions are met:

- (1) The facilities for the center are located in a state adjacent to Indiana.
- (2) The center is organized to provide services to Indiana residents.

(b) Upon the request of the county executive of a county, the county fiscal body of the county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriations of the county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

As added by P.L.2-1992, SEC.23. Amended by P.L.6-1997, SEC.151.

Note: See also preceding version of this section, effective until 3-1-2001.

IC 12-29-1-4

Sec. 4. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house the following:

- (1) A community mental health center.
- (2) A community mental retardation and other developmental disabilities center.
- (b) If services are provided to at least two (2) counties:

- (1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or
- (2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

As added by P.L.2-1992, SEC.23.

IC 12-29-1-5

Sec. 5. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

- (1) The filing of a petition requesting the issuance of bonds.
- (2) The giving of notice of the following:
 - (A) The filing of the petition requesting the issuance of the bonds.
 - (B) The determination to issue bonds.
 - (C) A hearing on the appropriation of the proceeds of the bonds.
- (3) The right of taxpayers to appear and be heard on the proposed appropriation.
- (4) The approval of the appropriation by the department of local government finance.
- (5) The right of taxpayers to remonstrate against the issuance of bonds.

As added by P.L.2-1992, SEC.23. Amended by P.L.90-2002, SEC.365.

IC 12-29-1-6

Sec. 6. If bonds are issued under this chapter:

- (1) the building that is constructed, equipped, or improved with proceeds of the bonds is:
 - (A) the property of the county issuing the bonds; or
 - (B) the joint property of the counties involved if the bonds are issued by at least two (2) counties; and
- (2) the tax limitations in sections 1 and 2 of this chapter do not apply to the levy of taxes to pay the bonds and the interest on the bonds.

As added by P.L.2-1992, SEC.23.

IC 12-29-1-7

Sec. 7. (a) On the first Monday in October, the county auditor shall certify to:

- (1) the division of mental health, for a community mental health center;
- (2) the division of disability, aging, and rehabilitative services, for a community mental retardation and other developmental disabilities center; and
- (3) the president of the board of directors of each center;

the amount of money that will be provided to the center under this chapter.

(b) The county payment to the center shall be paid by the county treasurer to the treasurer of each center's board of directors in the following manner:

- (1) One-half (1/2) of the county payment to the center shall be made on the second Monday in July.
- (2) One-half (1/2) of the county payment to the center shall be made on the second Monday in December.

A county treasurer making a payment under this subsection or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1(d) shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office of Medicaid policy and planning shall assist a county treasurer in making this certification.

(c) Payments by the county fiscal body:

(1) must be in the amounts:

- (A) determined by IC 12-29-2-1 through IC 12-29-2-6; and
- (B) authorized by section 1 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

As added by P.L.2-1992, SEC.23. Amended by P.L.4-1993, SEC.218; P.L.5-1993, SEC.231; P.L.126-1998, SEC.20.

IC 12-29-2**Chapter 2. Community Mental Health Centers****IC 12-29-2-1**

Sec. 1. This chapter applies only to the funding of a program of services for the mentally ill that is designated as a community mental health center by the division of mental health in the division's approval of the program.

As added by P.L.2-1992, SEC.23.

IC 12-29-2-2a

Note: This version of section effective until 4-1-2002. See also following version of this section, effective 4-1-2002.

Sec. 2. (a) Subject to subsection (b), a county shall fund the operation of community mental health centers in an amount not less than the amount that would be raised by an annual tax rate of one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of taxable property within the county, unless a lower tax rate will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

- (1) If the total population of the county is served by one (1) center.
- (2) If the total population of the county is served by more than one (1) center.
- (3) If the partial population of the county is served by one (1) center.
- (4) If the partial population of the county is served by more than one (1) center.

(b) This subsection applies only to a property tax that is imposed in a county having a population of more than seven hundred thousand (700,000). The tax rate permitted under subsection (a) for taxes first due and payable after calendar year 1995 is the tax rate permitted under subsection (a) as adjusted under this subsection. For each year in which a general reassessment of property will take effect, the department of

local government finance shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent) in the assessed value of the taxable property from the year preceding the year the general reassessment takes effect to the year that the general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent) in the assessed value of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which a general reassessment of property will take effect.

As added by P.L.2-1992, SEC.23. Amended by P.L.17-1995, SEC.12; P.L.6-1997, SEC.152; P.L.90-2002, SEC.366.

IC 12-29-2-2b

Note: This version of section effective 4-1-2002. See also preceding version of this section, effective until 4-1-2002.

Sec. 2. (a) Subject to subsection (b), a county shall fund the operation of community mental health centers in an amount not less than the amount that would be raised by an annual tax rate of one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of taxable property within the county, unless a lower tax rate will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

(1) If the total population of the county is served by one (1) center.

(2) If the total population of the county is served by more than one (1) center.

(3) If the partial population of the county is served by one (1) center.

(4) If the partial population of the county is served by more than one (1) center.

(b) This subsection applies only to a property tax that is imposed in a county containing a consolidated city.

The tax rate permitted under subsection (a) for taxes first due and payable after calendar year 1995 is the tax rate permitted under subsection (a) as adjusted under this subsection. For each year in which a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent) in the assessed value of the taxable property from the year preceding the year the general reassessment takes effect to the year that the general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent) in the assessed value of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under

this subsection for the next year in which a general reassessment of property will take effect.

As added by P.L.2-1992, SEC.23. Amended by P.L.17-1995, SEC.12; P.L.6-1997, SEC.152; P.L.90-2002, SEC.366; P.L.170-2002, SEC.84.

IC 12-29-2-3

Sec. 3. In situations described in section 2(a)(1) or 2(a)(3) of this chapter, the county's maximum appropriation for part of the total operating budget of the center is determined as follows:

STEP ONE: Divide the total county population by the population of the county residing in the primary service area of the community mental health center that is certified by the division of mental health and addiction to serve the county.

STEP TWO: Multiply the amount determined in STEP ONE by the total operating budget of the center after the operating budget of the center is reduced by the following anticipated amounts:

(A) Gifts, except bequests.

(B) Merchandise.

(C) Fees.

(D) Federal grants for direct service, except research and demonstration grants.

As added by P.L.2-1992, SEC.23. Amended by P.L.79-2002, SEC.2

IC 12-29-2-4

Sec. 4. (a) Except as provided in subsection (b), in situations described in section 2(a)(2) or 2(a)(4) of this chapter, the county's maximum appropriation for part of the total operating budget of the centers is determined in the same manner as in situations described in section 2(a)(1) or 2(a)(3) of this chapter.

(b) The amount derived from the calculation under subsection (a) represents the combined maximum appropriation to all centers serving the particular county. Except for a county containing a consolidated city, the allotment to each center shall be determined in the following manner:

(1) To determine the allotment to each center serving the total population of the county under the situation described in section 2(a)(2) of this chapter, the amount actually appropriated shall be apportioned according to the proportion of the county's population residing in the primary service area of each center, which is certified by the division of mental health and addiction to serve the county, to the total population of the county.

(2) To determine the allotment to each center in the situation described in section 2(a)(4) of this chapter, the amount actually appropriated shall be apportioned according to the proportion of the county's population residing in the primary service area of each center, which is certified by the division of mental health and addiction to serve the county, to the population of the county served by all centers.

As added by P.L.2-1992, SEC.23. Amended by P.L.79-2002, SEC.3.

IC 12-29-2-5

Sec. 5. (a) The maximum appropriation determined under section 3 or 4 of this chapter represents the county's absolute proportional share of each center's total operating budget.

(b) If the proportional share is less than the four cent (\$0.04) requirement in section 2 of this chapter, the county shall appropriate only the maximum appropriation amount.

(c) If the proportional share is more than the four cent (\$0.04) requirement in section 2 of this chapter, the county shall satisfy the four cent (\$0.04) equivalent appropriation and may appropriate an amount in excess of the four cent (\$0.04) equivalent appropriation up to an amount added to the four cent (\$0.04) equivalent appropriation that would equal a ten cent (\$0.10) equivalent appropriation.

As added by P.L.2-1992, SEC.23. Amended by P.L.40-1994, SEC.63.

IC 12-29-2-6

Sec. 6. The requirements and calculations of this chapter do not affect any sections of this article that relate to the construction budget of a community mental health center.

As added by P.L.2-1992, SEC.23.

IC 12-29-2-7

Sec. 7. The county fiscal body shall appropriate and approve the money necessary to carry out this chapter.

As added by P.L.2-1992, SEC.23.

IC 12-29-2-8

(Repealed by P.L.37-1998, SEC.1.)

IC 12-29-2-9

(Repealed by P.L.37-1998, SEC.1.)

IC 12-29-2-10

(Repealed by P.L.37-1998, SEC.1.)

IC 12-29-2-11

(Repealed by P.L.37-1998, SEC.1.)

IC 12-29-2-12

(Repealed by P.L.37-1998, SEC.1.)

IC 12-29-2-13a

Note: This version of section effective until 3-1-2001. See also following version of this section, effective 3-1-2001.

Sec. 13. (a) This section applies to a county having a population of not less than four hundred thousand (400,000) but not more than seven hundred thousand (700,000).

(b) In addition to any other appropriation under this article, a county annually may fund each center serving the county from the county's general fund in an amount not exceeding the amount that would be raised by a tax rate of three cents (\$0.03) on each one hundred dollars (\$100) of taxable property within the county.

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of community residential facilities for the chronically mentally ill (as defined in IC 12-7-2-167).

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of mental health.

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of mental health for a community mental health center.

As added by P.L.2-1992, SEC.23. Amended by P.L.40-1994, SEC.64; P.L.6-1995, SEC.36.

Note: See also following version of this section, effective 3-1-2001.

IC 12-29-2-13b

Note: This version of section effective 3-1-2001. See also preceding version of this section, effective until 3-1-2001.

Sec. 13. (a) This section applies to a county having a population of not less than four hundred thousand (400,000) but not more than seven hundred thousand (700,000).

(b) In addition to any other appropriation under this article, a county annually may fund each center serving the county from the county's general fund in an amount not exceeding the amount that would be raised by a tax rate of one cent (\$0.01) on each one hundred dollars (\$100) of taxable property within the county.

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of community residential facilities for the chronically mentally ill (as defined in IC 12-7-2-167).

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of mental health.

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of mental health for a community mental health center.

As added by P.L.2-1992, SEC.23. Amended by P.L.40-1994, SEC.64; P.L.6-1995, SEC.36; P.L.6-1997, SEC.153.

Note: See also preceding version of this section, effective until 3-1-2001.

IC 12-29-2-14

Sec. 14. (a) An entity may not:

(1) hold itself out to be a community mental health center; or

(2) use the term "community mental health center";
unless the entity is certified by the division of mental health.

(b) The division of mental health shall investigate a report that an entity is operating as a community mental health center without the approval of the division of mental health and report the division's findings to the attorney general.

(c) Upon receiving a report made under subsection (b), the attorney general may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of the entity that is the subject of the report if there is reasonable cause to believe that the entity is operating without the required approval of the division

of mental health.

(3) File an action for injunctive relief to stop the entity that is the subject of the report from using the term "community mental health center".

(4) Seek in a civil action a civil penalty of not more than one hundred dollars (\$100) a day for each day an entity is operating without the required approval of the division of mental health.

(d) An opportunity for an informal meeting with the division of mental health must be provided after the injunctive relief is ordered.

(e) The civil penalties collected under this section must be deposited in the mental health centers fund (IC 6-7-1-32.1).

As added by P.L.111-1997, SEC.6.

IC 12-29-2-15

Sec. 15. (a) A community mental health center that:

(1) is certified by the division of mental health and addiction;

(2) receives county funding from one (1) or more counties under this chapter; and

(3) is not administered by a hospital licensed under IC 16-21-2;

shall include a member of a county fiscal body, or a county fiscal body's designee, on the center's governing board. The member shall be selected by the county fiscal body of the county where the community mental health center maintains its corporate mailing address. The county fiscal body representative must reside in one (1) of the counties in the community mental health center's primary service area.

(b) A community mental health center that:

(1) is certified by the division of mental health and addiction;

(2) receives county funding from one (1) or more counties under this chapter; and

(3) is administered by a hospital licensed under IC 16-21-2;

shall include a member of a county fiscal body, or a county fiscal body's designee, on the center's advisory board. The member shall be selected by the county fiscal body of the county where the community mental health center maintains its corporate mailing address. The county fiscal body representative must reside in one (1) of the counties in the community mental health center's primary service area.

As added by P.L.79-2002, SEC.4.

IC 12-29-2-16

Sec. 16. A community mental health center that is certified by the division of mental health and addiction shall provide an annual report to the fiscal body of each county from which the center receives funding under this chapter.

As added by P.L.79-2002, SEC.5.

IC 12-29-3

Chapter 3. Community Mental Retardation and Other Developmental Disabilities Centers

IC 12-29-3-1

(Repealed by P.L.24-1997, SEC.66.)

IC 12-29-3-2

(Repealed by P.L.24-1997, SEC.66.)

IC 12-29-3-3

(Repealed by P.L.24-1997, SEC.66.)

IC 12-29-3-4

(Repealed by P.L.24-1997, SEC.66.)

IC 12-29-3-5

(Repealed by P.L.24-1997, SEC.66.)

IC 12-29-3-6

Sec. 6. (a) As used in this section, "community mental retardation and other developmental disabilities center" means a community center that is:

(1) incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17;

(2) organized for the purpose of providing services for mentally retarded and other individuals with a developmental disability;

- (3) approved by the division of disability, aging, and rehabilitative services; and
- (4) accredited for the services provided by one (1) of the following organizations:
 - (A) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.
 - (B) The Council on Quality and Leadership in Supports for People with Disabilities, or its successor.
 - (C) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.
 - (D) The National Commission on Quality Assurance, or its successor.
 - (E) An independent national accreditation organization approved by the secretary.
- (b) The county executive of a county may authorize the furnishing of financial assistance to a community mental retardation and other developmental disabilities center serving the county.
- (c) Upon the request of the county executive, the county fiscal body may appropriate annually, from the general fund of the county, money to provide financial assistance in an amount not to exceed the amount that could be collected from the annual tax levy of sixty-seven hundredths of one cent (\$0.0067) on each one hundred dollars (\$100) of taxable property.

As added by P.L. 2-1992, SEC. 23. Amended by P.L. 4-1993, SEC. 224; P.L. 5-1993, SEC. 237; P.L. 24-1997, SEC. 60; P.L. 6-1997, SEC. 154; P.L. 2-1998, SEC. 43; P.L. 64-2002, SEC. 4.